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COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2004

VOLUME II

R E P O R T

SUBMITTED TO THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

AND THE

COMMITTEE ON INTERNATIONAL RELATIONS
U.S. HOUSE OF REPRESENTATIVES

BY THE

DEPARTMENT OF STATE

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

SEPTEMBER 2005

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

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FOREWORD

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

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

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

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

LETTER OF TRANSMITTAL

DEPARTMENT OF STATE,
Washington, DC, March 31, 2005

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

DEAR MR. CHAIRMAN: On behalf of the Secretary of State, I am transmitting to you the *Country Reports on Human Rights Practices for 2004,* prepared in compliance with sections 116(d)(1) and 502B(b) of the Foreign Assistance Act of 1961, as amended, and section 505(c) of the Trade Act of 1974, as amended.

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

Sincerely,

PAUL V. KELLY,
Assistant Secretary, Legislative Affairs.

Enclosure.

PREFACE

HUMAN RIGHTS REPORTS

In his second inaugural address, President Bush renewed America's commitment to stand for freedom and human dignity throughout the world:

> America's vital interests and our deepest beliefs are now one. From the day of our founding, we have proclaimed that every man and woman on this earth has rights, and dignity, and matchless value, because they bear the image of the maker of heaven and earth. Across the generations we have proclaimed the imperative of self-government, because no one is fit to be a master, and no one deserves to be a slave. Advancing these ideals is the mission that created our nation. It is the honorable achievement of our fathers. Now it is the urgent requirement of our nation's security, and the calling of our time.
>
> So it is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world.

The Country Reports on Human Rights Practices provide a key framework that the United States and others around the world use in assessing the state of human freedom and in marshalling efforts to advance it. The conscientious compiling of these reports equips us to more effectively stand against oppression and for human dignity and liberty. Our embassies and Washington staff work closely with local citizens, human rights and other organizations, and community leaders to identify, investigate, and verify information. These volumes, available in the languages of most of the world's peoples, foster discussion, promote advocacy, permit the measurement of progress, and show where improvements are needed.

Over the last 12 months, we have worked closely with the international community to enable citizens in countries such as Guatemala, Indonesia, Ghana, Ukraine, and Afghanistan to make their votes truly count in selecting their governments. This fundamental right to effective suffrage opens the door for advancing a wide range of other rights, as the records in these countries have already begun to show.

This 28th edition of our Country Reports turns our spotlight on 196 countries, ranging from the stoutest defenders to the worst violators of human dignity. We take seriously our responsibility to report as accurately, as sensitively, and as carefully as possible the information in these reports.

The information contained in this report allows us to construct strategies for promoting freedom and individual liberty. In the coming month we will report on the specific steps we have taken over the past year to support human rights and democracy.

Mindful of the diligent effort and widespread cooperation both within and outside the Department that has gone into preparing these reports, I am pleased to transmit the Department of State's *Country Reports on Human Rights Practices for 2004* to the U.S. Congress.

CONDOLEEZZA RICE, *Secretary of State*

OVERVIEW AND ACKNOWLEDGEMENTS

HUMAN RIGHTS REPORTS

WHY THE REPORTS ARE PREPARED

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

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

HOW THE REPORTS ARE PREPARED

In August 1993, the Secretary of State moved to strengthen further the human rights efforts of our embassies. All sections in each embassy were asked to contribute information and to corroborate reports of human rights violations, and new efforts were made to link mission programming to the advancement of human rights and democracy. In 1994, the Bureau of Human Rights and Humanitarian Affairs was reorganized and renamed as the Bureau of Democracy, Human Rights and Labor, reflecting both a broader sweep and a more focused approach to the interlocking issues of human rights, worker rights and democracy. The 2004 Country Reports on Human Rights Practices reflect a year of dedicated effort by hundreds of State Department, Foreign Service, and other U.S. Government employees.

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

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

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

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

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

Within the Bureau of Democracy, Human Rights and Labor, the editorial staff of the Country Reports Team consists of: Editor-in-Chief: Nadia Tongour; Deputy Editor-in-Chief: LeRoy G. Potts; Senior Advisors: Elizabeth Dugan, and Gretchen Birkle; Senior Editors: Cortney Dell, Dan Dolan, Stephen Eisenbraun, Leonel Mi-

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INTRODUCTION TO THE COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2004

On September 17, 2002, President Bush presented a new National Security Strategy for the United States based on the principle that promoting political and economic freedom and respect for human dignity will build a safer and better world. To guide and focus the national effort that had grown out of the war on terrorism, the strategy outlined a series of fundamental tasks which, among others, required our Government to champion aspirations for human rights and build democracy. In his second inaugural address on January 20, 2005, President Bush elaborated on that principle: "The survival of liberty in our land depends on the success of liberty in other lands. The best hope for peace in our world is the expansion of freedom in all the world."

The United States and its international partners worked with many countries during 2004 to expand freedom by helping to protect the political rights of their citizens and to advance the rule of law in their societies. In a few cases, where concerns centered on the rights of the people to choose their own governments, dramatic developments focused global attention on their struggles and landmark achievements.

In the past three years since the removal of the Taliban regime, the people of Afghanistan have worked to diminish terrorism and improve security; to bridge traditional ethnic, religious, and tribal divides; to craft a new constitution faithful to their values and way of life; to extend fundamental rights to women and minorities; and to open their society to unprecedented political competition and freedom of expression. The international community responded to this undertaking by helping to register voters across a geographically scattered, largely illiterate population; by educating cadres of Afghan election workers and political participants in the conduct of elections and campaigns and by joining with Afghan forces to provide security during pre-election preparations and during the actual voting. In the presidential election, which took place in October, 18 candidates vied for the votes of the 10 million registered Afghans, more than 40 percent of whom were women. Despite threats and attacks before the vote and serious technical challenges, more than 8 million Afghans—including more than 3.2 million women—cast ballots to choose their leader in a truly democratic election for the first time, with a majority selecting President Hamid Karzai.

In Ukraine, the presidential election campaign was marred by government pressure on opposition candidates and by widespread violations and fraud during the voting. The Kuchma government engaged in fraud and manipulation during the presidential election in both the first and second round of voting on October 31 and November 21. The Government censored media outlets and journalists

to influence news coverage, which sparked the so-called "journalist rebellion" among reporters who refused to follow government directives. Eventually, popular demonstrations against the official results of the flawed November 21 vote gradually swelled into an "Orange Revolution," the campaign color associated with opposition leader Viktor Yushchenko, who was widely believed to have won the election.

Respect for human rights in Ukraine took a decided turn for the better when, on December 3, the country's Supreme Court invalidated the runoff election as fraudulent, vindicating the observations of many domestic and international monitors about numerous violations of electoral procedures, harassment of opposition candidates, heavily biased coverage in government-controlled media, and widespread voting and counting fraud. In the court-mandated repeat election on December 26, the people of Ukraine selected their new President. International observers of that vote, won by Yushchenko, noted the improvements in media coverage, increase in transparency of the voting process, decrease in government pressure to support a particular candidate, and fewer disruptions at the polls. The new President expressed a strong commitment to democracy, the rule of law, and observance of human rights.

In Iraq, people faced a series of difficult tasks as they prepared to choose their own leader through democratic elections, while the severity and ubiquity of terrorist attacks expanded the dimensions of the challenges. First, the Iraqi Governing Council achieved consensus on a framework for the transition of sovereignty back to Iraqi authorities under the aegis of the rule of law and clearly defined procedures by which Iraq's citizens would be able to choose their own authorities and construct their own constitutional order. In March, the approval of the Transitional Administrative Law (TAL) achieved these objectives and paved the way for the second step, the transition of sovereignty from the Coalition Provisional Authority to the Iraqi Interim Government (IIG) on June 28.

Working with the assistance of the United Nations and other international advisors, the IIG established the Independent Electoral Commission of Iraq, an independent election authority that established procedures for registration of and voting by Iraqis and expatriates in 14 other countries. On August 15–18, the National Conference convened and elected a 100-member Interim National Council. Elections for the Transitional National Assembly, the country's legislative authority and the first step in the formation of an Iraqi Transitional Government, were scheduled to take place on January 30, 2005. According to the TAL, the transitional government will draft a permanent constitution that is to be ratified by August 2005, and new elections are to be held for a permanent government under that Constitution by December 2005.

We believe events like these elections will increase the prospects for peace, provide a solid grounding for self-government in these countries and help create momentum for the improvement of human rights practices for all people participating in them. Yet progress along this path will not be easy or rapid, at least at first, as the 196 detailed reports in this volume amply demonstrate. In a number of cases, these reports will show that human rights practices may actually have eroded despite the successful completion of

internationally accepted elections, as has occurred in some respects with the judiciary and the media since the voting that took place last year in Venezuela.

It was in part the recognition of the complexity and difficulty of the task of promoting human rights that led Congress in 1977 to institutionalize the Department of State's process of compiling these annual Country Reports on Human Rights Practices. By providing this compendium of witness to the global human rights experience, we hope that the record of this work in progress will help illuminate both future tasks and the potential for greater cooperation in advancing the aspirations of the Universal Declaration of Human Rights.

THE YEAR IN REVIEW: DEMOCRACY, HUMAN RIGHTS AND LABOR

Behind the detail of 196 country reports contained in the pages that follow, the developments and experiences in certain countries stand out due not only to the intensity of the human rights problems but also to our involvement with the victims and their governments during 2004.

The Government of Sudan's human rights record remained extremely poor as it continued to restrict freedom of speech, press, assembly, association, religion and movement. It arrested and harassed those who exercised these rights.

At year's end, there were more than 1.5 million Internally Displaced Person (IDPs) in the Sudanese Province of Darfur, and another 200,000 civilians had fled to Chad, where the U.N. High Commissioner for Refugees (UNHCR) coordinated a massive refugee relief effort. Approximately 70,000 people reportedly died as a result of the violence and forced displacement.

Despite the Government's repeated commitments to refrain from further violence in Darfur, the atrocities continued. Government and government-supported militias known as the Jinjaweed routinely attacked civilian villages. Typically, the Jinjaweed, often in concert with regular government forces, conducted attacks under cover of military aerial support. In September, after carefully reviewing a detailed study conducted by independent experts covering the experience of more than 1,100 refugees, Secretary of State Colin Powell concluded that genocide had been committed against the people of Darfur, saying that "Genocide has been committed in Darfur and that the Government of Sudan and Jinjaweed bear responsibility and that genocide may still be occurring."

Government forces in that region routinely killed, injured, and displaced civilians, and destroyed clinics and dwellings intentionally during offensive operations. There were confirmed reports that government-supported militia also intentionally attacked civilians, looted their possessions, and destroyed their villages.

At the same time, year-end developments in negotiations related to the North-South conflict provided hope for peace and improvement of human rights practices in other areas of Sudan. By year's end, the State Department saw significant movement on the preliminary accords between the Government and the Sudan People's Liberation Movement Army after 21 years of low intensity conflict.

In response to the Democratic People's Republic of Korea's (North Korea) continued brutal and repressive treatment of its peo-

ple, the United States Congress enacted the North Korea Human Rights Act of 2004. The Act seeks to address the serious human rights situation in North Korea and to promote durable solutions for North Korean refugees, transparency in provision of humanitarian assistance, a free flow of information, and a peaceful reunification on the Korean peninsula.

In Belarus, police abuse and occasional torture of prisoners and detainees continued. The security forces arbitrarily arrested and detained citizens for political reasons; in addition, individuals were sued and sentenced to jail terms for such political crimes as "defamation" of state officials, often interpreted to include criticism of their policies. The Government of Belarus persisted in discounting credible reports regarding the role of government officials in the long-term disappearances of a journalist and well-known opposition political figures and failed to conduct full, transparent investigations into these disappearances. Instead, the Government appointed Viktor Sheiman, linked to disappearances by credible evidence in a Council of Europe report, as Head of the Presidential Administration, thus perpetuating a climate of abuse with impunity.

In Burma, the Junta ruled by decree and was not bound by any constitutional provisions providing any fundamental rights. Security forces carried out extrajudicial killings. In addition, disappearances continued, and security forces raped, tortured, beat, and otherwise abused prisoners and detainees. Arbitrary arrests and incommunicado detention were frequent. Security forces also regularly infringed on citizens' privacy, forcibly relocated populations, and conscripted child soldiers.

The Government of Iran was responsible for numerous killings during the year, including executions following trials that lacked due process. There were numerous reports that security forces tortured prisoners and detainees. Additionally, there were arbitrary arrests, extended incommunicado detention, poor and overcrowded prisons, lack of access to counsel, punishment by the lash, and violation of personal privacy.

China's cooperation and progress on human rights during 2004 was disappointing. China failed to fulfill many of the commitments it made at the 2002 U.S.-China Human Rights Dialogue. However, at the end of the year, working level discussions on human rights, which had been suspended when the U.S. supported a resolution on China's human rights practices at the U.N. Commission on Human Rights (UNCHR), were resumed. During 2004, the government continued to arrest and detain activists, such as individuals discussing freely on the Internet, defense lawyers advocating on behalf of dissidents and the dispossessed, activists arguing for HIV/AIDs issues, journalists reporting on SARS, intellectuals expressing political views, persons attending house churches, and workers protesting for their rights. Abuses continued in Chinese prisons. The Government continued its crackdown against the Falun Gong spiritual movement, and tens of thousands of practitioners remained incarcerated in prisons, extrajudicial reeducation-through-labor camps, and psychiatric facilities. The National People's Congress amended the Constitution to include protection of human

rights, yet it is unclear to what extent the Government plans to implement this amendment.

In Saudi Arabia, there were positive developments in a few areas, including a government-sponsored conference on women's rights and obligations and the formation of the first formal human rights organization permitted in the Kingdom. In October, the Government issued an executive by-law entitling some long-term residents to apply for citizenship, and by year's end, voter and candidate registration, albeit only for men, was well advanced for municipal elections scheduled for February 2005.

The record of human rights abuses and violations for Saudi Arabia, however, still far exceeds the advances. There were credible reports of torture and abuse of prisoners by security forces, arbitrary arrests, and incommunicado detentions. The religious police continued to intimidate, abuse, and detain citizens and foreigners. Most trials were closed, and defendants usually appeared before judges without legal counsel. Security forces arrested and detained reformers. The Government continued to restrict freedoms of speech and press, assembly, association and movement, and there were reports that the Government infringed on individuals' privacy rights. Violence and discrimination against women, violence against children, discrimination against ethnic and religious minorities, and strict limitations on worker rights continued.

In contrast to developments in a number of countries that increased direct citizen control over government authorities, in Russia changes in parliamentary election laws and a shift to the appointment, instead of election, of regional governors further strengthened the power of the executive branch. Greater restrictions on the media, a compliant Duma (Parliament), shortcomings in recent national elections, law enforcement corruption, and political pressure on the judiciary also raised concerns about the erosion of government accountability. Racially motivated violence and discrimination increased, despite considerable legislative prohibitions. Authorities failed to investigate actions against minorities while subjecting them to more frequent document checks, targeting them for deportation from urban centers, and fining them in excess of permissible penalties or detaining them more frequently. Government institutions intended to protect human rights were relatively weak.

The Government of Zimbabwe has conducted a concerted campaign of violence, repression, and intimidation. This campaign has been marked by disregard for human rights, the rule of law, and the welfare of Zimbabwe's citizens. Torture by various methods is used against political opponents and human rights advocates. War veterans, youth brigades, and police officers act with sustained brutality against political enemies. The Mugabe regime has also targeted other institutions of government, including the judiciary and police. Judges have been harassed into submission or resignation, replaced by Mugabe's cronies. The news media have been restricted and suppressed, with offending journalists arrested and beaten. Land seizures continue to be used as a tool for political and social oppression, and opponents of these destructive policies are subject to violent reprisals.

Respect for human rights remained poor in Venezuela during 2004, despite the Government victory in an August referendum to recall President Chavez. Opponents charged that the process was fraudulent, but Organization of American States (OAS) and Carter Center observers found that the official results "reflected the will of the electorate." Throughout the year, the Government increased its control over the judicial system and its interference in the administration of justice. Nongovernmental organizations (NGOs) were subject to threats and intimidation by government supporters. In December, the legislature passed laws that erode freedom of the media, freedom of speech, and which in effect make criticism of the government a criminal offense. The U.S. Government sanctioned the Venezuelan Government for continuing to fall short in efforts to combat trafficking in persons.

Fidel Castro added another year to his record as the longest serving dictator in the world. The Government retained its stance of rejection of all democratic processes and continued its harassment and intimidation of pro-democracy activists, dissidents, journalists and other professionals and workers seeking to undertake economic activities not controlled by the state. The majority of the 75 dissidents sentenced to long jail terms in 2003 remained incarcerated despite international protests, and the authorities arrested 22 additional human rights activists and sentenced them for acts such as "contempt for authority." Addressing abuses in Cuba continued to be a priority for the United States as a member of the UNCHR.

During its 2004 session, the UNCHR formally adopted a U.S.-sponsored resolution on Cuba, as well as resolutions on Turkmenistan, North Korea and Belarus for the second year in a row. A resolution on Burma was approved by consensus. With such member countries as Zimbabwe, Cuba, Sudan, and China, which fail to protect their own citizens' rights, the 2004 session of the UNCHR fell short in several respects. The Commission failed to adopt resolutions on the human rights situations in China, Zimbabwe and Chechnya. The United States continued to emphasize the need to improve the functioning of the Commission, especially by supporting the inclusion of more countries with positive human rights records.

The United States believes that democratically elected governments are more likely to respect their citizens' human rights. For this reason, the United States collaborated with other participating countries of the Community of Democracies (CD), a network of democratic countries working together to promote, solidify, and advance democracy throughout the world. In 2004, the U.S. joined other CD countries to help launch the formation of a democracy caucus, a group of like-minded countries that coordinates more closely in the UNCHR and other UN settings to advance goals consistent with democratic values. At the UNCHR, the United States—jointly with Peru, Romania and East Timor—introduced and succeeded in having adopted a resolution to enhance the UN's role in promoting democracy. Among the resolution's recommendations is a call for the establishment of a mechanism—a "Focal Point"—within the Office of the High Commissioner for Human Rights, dedicated to helping new and emerging democracies access UN resources available to support them.

In addition to its support for the creation of the UN democracy caucus, the CD sought to support the development of democratic institutions and values through projects linking democratic countries. It sent a multinational delegation of democracy practitioners to East Timor to share best practices with Timorese officials. Likewise, a group of Iraqi, election-related officials traveled from Iraq to Lithuania to observe and learn about election processes. Unifying democratic voices against violations of basic human rights—rights that have been codified in the Universal Declaration of Human Rights and that were reaffirmed in the CD's Warsaw Declaration and Seoul Plan of Action—is an essential way to maintain pressure on governments that deny and violate the rights of their own citizens.

INSTITUTIONAL CHANGES

In Qatar, the process of constitutional change continued with the Emir's approval of the draft of a new constitution that voters overwhelmingly had approved in 2003. Although the Emir's family will maintain hereditary rule, the new constitution expected to be enacted in June 2005, contains a number of human rights provisions.

In Pakistan, President Musharraf continued as Chief of the Army Staff, despite his promise to step down by year's end.

In Africa, the Central African Republic (CAR) enacted a new constitution and took a number of other steps to further an announced transition to democracy under President Bozize, who seized power in a March 2003 coup. In Guinea-Bissau, following a military coup in September 2003, the military installed a civilian government. In both cases, the stabilization of post-coup situations has been accompanied by a decline in the number of reported violations of human rights.

Turkey's desire to meet the EU Copenhagen Criteria to begin the accession process moved the Government to pass an important package of reforms, including a new, relatively more liberal penal code and a set of constitutional amendments to combat honor killings and torture; expand the freedom of religion, expression, and association; and reduce the role of the military in government. However, implementation of these reforms lagged. Security forces continued to commit numerous abuses, including torture, beatings, and arbitrary arrest and detention, although observers noted a decrease in such practices and the European Committee for the Prevention of Torture reported that local authorities were making efforts to comply with the Government's ″zero tolerance″ policy on torture. Honor killings continued. The Government relaxed some restrictions on the use of Kurdish and other languages, but restrictions on free speech and the press remained.

The year witnessed increasing efforts by some governments to fight corruption. Costa Rica was the most ambitious in actually investigating former high-level officials, as it launched separate investigations for misuse of funds, kickbacks, and illegal contracts by three former presidents. In Africa, anti-corruption campaigns focused on pecuniary as well as human rights abuses by officials. Gambian President Jammeh's campaign centered on curbing official corruption to restore international credibility, and the work of the Commission of Inquiry led to the dismissal of a number of top

officials and some prosecutions for economic crimes. Kenya created an anti-corruption czar, and the Government opened a number of investigations into allegations of extrajudicial killings. In Zambia, a Police Complaints Authority instituted in 2003 to combat police misconduct continued investigations into complaints.

POLITICAL RIGHTS

Regrettably, with the exception of Georgia and Ukraine, political developments in Eurasia remain a serious concern. Progress continues to be measured largely in terms of civil society development. More and more NGOs, opposition parties, and citizens are willing to organize and advocate for government accountability. In Turkmenistan and Uzbekistan, opposition parties are unable to register. At the same time, governments of the regions are drawing the wrong lessons from Ukraine and Georgia and attempt to stifle civil society by harassing democracy NGOs through bureaucratic obstacles and specious legal means.

In Georgia, the progress that international observers noted in last January's presidential election set the stage for "the most democratic elections in Georgia's history" in parliamentary voting in March. Other governments in the region have made some limited progress in improving electoral processes by drafting new election codes. New election laws introduced in Kazakhstan, Kyrgyzstan and Tajikistan are an improvement in some areas, but in all three countries, the laws continue to fall short of international standards. Likewise, elections in 2004 in Kazakhstan and Kyrgyzstan marked limited improvements over previous ones, but domestic and international observers raised questions about voting irregularities, abuse or harassment of opposition candidates, or limitations on equal access to the media.

In Belarus, the Government continued to deny citizens the right to change their government through a democratic political process. A seriously flawed referendum on October 17 removed constitutional term limits on the presidency. In advance of the referendum and the equally flawed parliamentary elections held simultaneously, the Government suspended independent newspapers and disqualified many parliamentary candidates. The Government used excessive force and in some cases beat and arrested political leaders who peacefully protested electoral fraud and the journalists covering the protests. During the year, the Government also shut down a number of major registered NGOs that focused on political rights, and state security authorities increasingly harassed those that remained.

In October, Bosnia and Herzegovina held its first self-administered municipal elections since the signing of the Dayton Peace Accords. The elections were judged to meet international democratic standards.

A notably high voter turnout in a series of three elections in Indonesia paved the way for the transition in political power there from a defeated incumbent to an elected opposition leader. The process also marked the defeat of military and police candidates who stood for seats in Parliament. In noteworthy elections in Africa, the incumbent political parties of Ghana and Mozambique gained re-election in processes that were judged generally free and

fair. Sierra Leone held its first local government elections in 32 years, although there were irregularities in some areas.

In Burundi, concern focused on the delay in holding elections and the progress of the country's transition to democracy. The Transitional Government failed to hold the local and national elections that are stipulated by the Arusha Peace and Reconciliation Agreement, and at the end of the year it also delayed indefinitely a referendum on a draft constitution. The Maoist insurgency and the deadlock among Nepal's political parties also prevented the holding of elections there during the year and helped deepen the country's political crisis.

In Rwanda, greatly circumscribed political rights were further limited when leading human rights organizations were either shut down or effectively dismantled. The action was justified as part of a campaign against "divisionism," according to a government report that accused human rights groups, journalists, teachers, and churches of promoting an "ideology of genocide."

The Iranian Government's respect for the freedom and political participation of its citizens continued to deteriorate. Elections that were widely perceived as neither free nor fair were held for the 290-seat Majlis (Parliament) in February. The conservative, cleric-dominated Guardian Council excluded virtually all reformist candidates, including 85 incumbent members of parliament. Reasons cited included not showing ″demonstrated obedience″ to the current system of government. As a result of the seriously-flawed elections, reformers were reduced to a small minority of the parliament. Meanwhile, the conservative backlash against reformist trends and parties continues.

INTERNAL AND OTHER CONFLICTS

The Truth and Reconciliation Commission of Sierra Leone completed public hearings in which approximately 10,000 citizens participated to air grievances as victims or provide confessions from the civil war. The Commission suggested legal, political and administrative reforms to the Government. The Government also released numerous children who had fought as child soldiers. By year's end, the UN Mission to Sierra Leone (UNAMSIL) had handed over responsibility countrywide to the Sierra Leone Armed Forces and the Sierra Leone Police, as UNAMSIL began preparations to withdraw by June 2005 as stipulated by its Security Council mandate.

After being elected in a runoff at the end of 2003, Guatemalan President Oscar Berger "re-launched" the 1996 Peace Accords as a national agenda and symbolically apologized to citizens on behalf of the State for human rights violations committed during that country's protracted civil war. The Government also reduced the size of the military, eliminated some major commands and units and reduced the military budget. In August, the military made public a new doctrine, which includes provisions on the importance of protecting human rights.

As a result of negotiations throughout the year, the Government of Colombia demobilized approximately 3,000 fighters from the paramilitary United Self-Defense Forces of Colombia (AUC) in November and December. In addition, hundreds of municipal officials returned to their towns after the government established a perma-

nent police presence in every urban center in the country. As a result, rates for homicides, kidnappings, and other violent crimes decreased.

In Haiti, domestic conflict continued throughout the year. The political impasse, combined with increasing violence between pro- and anti-Aristide factions, culminated on February 29, when President Aristide submitted his resignation and left the country. Despite the presence of UN peacekeeping forces, the constitutionally-established Interim Government remained weak. In September, pro-Aristide partisans in Port-au-Prince launched a campaign of destabilization and violence known as ″Operation Baghdad.″ This campaign included kidnapping, decapitation and burning of police officers and civilians, indiscriminate shootings, and the destruction and incineration of public and private property. The violence prevented the normal functioning of schools, public markets, the seaport, and the justice system in Port-au-Prince for several weeks.

A series of conflicts continued to trouble South Asia. In Jammu and Kashmir and the northeastern states of India, violence continued, and security forces committed abuses with impunity, killing civilians and not just armed combatants. In Sri Lanka, both the Government and the terrorist organization, Liberation Tigers of Tamil Eelam, violated the ceasefire. In Nepal, the disappearance of persons in custody remained a very serious problem, and government security forces continued to have broad authority to arrest and detain individuals suspected of sympathizing with the Maoist insurgents. Security forces also used arbitrary and unlawful lethal force. As the Maoist insurgency continued, rebel militants tortured civilians, while government agents forcibly conscripted children as soldiers and conducted bombings that killed civilians.

The Great Lakes region of central Africa, which encompasses the Democratic Republic of the Congo (DRC), Rwanda, Burundi and Uganda, has been plagued by civil war, large-scale interethnic violence, and massive human rights abuses associated with them for well over a decade due to the continuing presence of armed groups and militia that move between the countries. These groups compete with one another for strategic and natural resources and inhabit an environment of shifting alliances. Among the most worrisome groups in the eastern Congo are those who took sanctuary in the region after the 1994 Rwandan genocide. This same group continues to oppose the Government of Rwanda and launch cross-border campaigns, as well as attack civilians in the DRC and commit numerous other abuses. There are also armed groups in the region who oppose the governments and peace process in Uganda and Burundi.

While prospects for peace in the Great Lakes region are promising, human rights abuses are almost routine. Children are the primary victims and are forcefully recruited, abducted, and turned into soldiers, although some of the governments have made progress in demobilizing child soldiers in their ranks. Some militia groups are predominantly comprised of children. Women and girls are particularly vulnerable, as rape increasingly is used as a weapon of war. The region is a home to approximately five million of the world's 25 million internally displaced persons and hosts a number of refugees. The United States is actively pursuing talks between

the DRC, Uganda and Rwanda. We continue to monitor the situation in all the countries in the region by focusing attention on the threat posed by armed groups.

In Cote d'Ivoire, an attack on the rebel positions and an air strike on French peacekeeping troops in November broke the tenuous 18-month ceasefire between the Government and rebels. Despite the embargo and threat of sanctions, the Government has threatened to pursue a military solution to the conflict. President Bush determined that Cote d'Ivoire, once one of the United States' largest trading partners in the region through the Africa Growth and Opportunity Act (AGOA), was ineligible for AGOA this year due to concerns about the security situation and the general decline in the rule of law that make it a hostile place for foreign investment.

In Russia, the September attack on a school in Beslan in North Osettia and the ongoing disappearances of civilians detained by security forces underscored the extent to which both sides in the expanding conflict in the North Caucasus continue to demonstrate little respect for basic human rights. There were credible reports of serious violations, including politically motivated disappearances and unlawful killings, by both the government and Chechen rebels. Individuals seeking accountability for these abuses also continued to be targeted, and Chechen rebels continued to attack Russian civilians, including a bombing of a Moscow subway.

INTEGRITY OF THE PERSON

After years of controversy, the Chilean Supreme Court upheld an appeals court decision to lift the judicial immunity of former President Augusto Pinochet. On December 13, a prosecuting judge indicted Pinochet for crimes committed as part of "Operation Condor" during the 1970s. In Central African Republic as the process of transition to civilian rule continued, the government disbanded the Security Investigation Division, a military intelligence unit that was accused of committing numerous human rights abuses, including torture, rape and extortion, during 2003. In December 2003, President Bozize reconvened the permanent military tribunal after an eight-year suspension. The tribunal considered cases on a variety of alleged human rights abuses including extrajudicial killings, rape and armed robbery.

North Korea remains one of the world's most repressive and brutal regimes. An estimated 150,000-200,000 persons are believed to be political prisoners in detention camps in remote areas, and defectors report that many prisoners have died from torture, starvation, disease, exposure, or a combination of causes. The regime also subjects citizens to rigid controls over many aspects of their lives.

In Egypt, the 1981 Emergency Law, extended in February 2003 for an additional three years, restricted many basic rights. The security forces continued to mistreat and torture prisoners, which resulted in at least ten reported deaths in custody at police stations or prisons during the year. Arbitrary arrest and detention and prolonged pretrial detention remained serious problems. Dismal prison conditions persisted.

Widespread use of torture by the Government of Syria resulted in at least eight deaths during the year. Arbitrary arrest and de-

tention, prolonged pre-trial detention without trial, fundamentally unfair trials in the security courts, and deteriorating prison conditions all persisted. Throughout the year, the security services conducted mass arrests of Kurds in Hassakeh province, Aleppo, Damascus, and other areas. On March 12, security forces in Qamishli, in the northeastern Hassakeh province, opened fire on a crowd at a soccer match after clashes between Arab and Kurdish fans erupted. In the days of rioting that followed, dozens were killed, as many as 2,000 Kurds were detained, and nearly 300 Kurds remained in custody and were awaiting trial before the State Security Court and Military Court at year's end. The Government also continued to withhold information on the welfare and whereabouts of persons who have been held incommunicado for years.

In Uzbekistan, torture was routine in prisons, pretrial facilities, and local police and security service precincts, and members of the security forces responsible for documented abuses were rarely punished. However, the government took some notable steps to address torture and establish police accountability. It created preliminary procedures within some divisions of the Ministry of Internal Affairs for investigating and disciplining officers for human rights abuses and allowed NGO access to its prisons and to train prison guards in human rights practices. The Government also cooperated with international forensic experts to take part in investigations of deaths in custody in which torture had been alleged.

FREEDOM OF THE PRESS

A conservative backlash to democratic demands in Iran extended into a number of areas beyond explicit questions of political rights. For example, the investigation into the 2003 death of a Canadian/Iranian photographer who suffered a brain hemorrhage after sustaining injuries while in an Iranian prison stagnated during 2004. The Government also gradually suppressed all independent domestic media outlets and arrested or intimidated their journalists into silence. In 2004 the last forum for free debate, weblogs, came under pressure when the government began arresting their creators and forcing them to sign false confessions. The increase in government pressure and control of media in Russia continued to weaken freedom of expression and independence of the media there, as a trend of increasing control and harassment of the press was noted in a number of Eurasian countries, especially Belarus and some countries in Central Asia. The Russian approach centered on use of controlling ownership of broadcast media to limit access to information on sensitive issues, such as Chechnya. Government pressure also increased self-censorship of journalists.

In Togo, after the Government undertook formal political consultations with the European Union, it adopted a new press code with mixed results. It eliminated prison sentences for most journalistic offenses, but maintained them for inciting certain actions, such as ethnic hatred or violation of the law, as well as for publishing under a false name. The law also sets standards of professionalism for journalists and requires independent newspapers to ensure that at least one third of their staff meet the Government's standards.

While Algeria experienced its first contested democratic election in 2004, leading to the reelection of President Bouteflika, the Government acted to increase restrictions on the media. The use of defamation laws and government harassment of the press significantly increased, leading to the imprisonment of several journalists for terms from two to 24 months, closure or suspension of two newspapers, and more self-censorship by the press.

In Venezuela, international organizations and domestic journalists charged the government with encouraging a climate of hostility toward the media. Administrative acts, combined with a new law passed in December, created a climate of hostility toward the independent media with increasing threats of prosecution.

FREEDOM OF RELIGION

These issues are discussed in depth in the Annual Report on International Religious Freedom, released in September 2004, while these Country Reports further highlight and update important developments.

The International Religious Freedom Act requires that those countries that engage in particularly severe violations of religious freedom be designated as Countries of Particular Concern (CPC). In September 2004, the Secretary of State re-designated Burma, China, Iran, North Korea, and Sudan as CPCs, and designated for the first time Eritrea, Saudi Arabia, and Vietnam.

With the cessation of government-sponsored violations of religious freedom under Saddam Hussein, the Secretary acted to remove Iraq's CPC designation in June 2004. Since the liberation of Iraq by coalition forces, there have been no governmental impediments to religious freedom, and the Iraqi Transitional Administrative Law provides for "freedom of thought, conscience, and religious belief and practice."

The Government of Saudi Arabia's actions in the area of religious freedom were disappointing. Throughout 2004, senior U.S. officials engaged Saudi authorities in an intense discussion of religious practices, and in September, the Secretary of State designated Saudi Arabia as a ″Country of Particular Concern″ under the International Religious Freedom Act for particularly severe violations of religious freedom. The Government rigidly mandates religious conformity. Non-Wahabi Sunni Muslims, as well as Shia and Sufi Muslims, face discrimination and sometimes severe restrictions on the practice of their faith. A number of leaders from these traditions have been arrested and imprisoned. The government prohibits public non-Muslim religious activities. Non-Muslim worshippers risk arrest, imprisonment, torture, or deportation for engaging in religious activities that attract official attention. There were frequent instances in which mosque preachers, whose salaries are paid by the government, used violent language against non-Sunni Muslims and other religions in their sermons.

Vietnam continued to restrict freedom of religion and the operation of religious organizations other than those approved by the State. The Government failed to issue a nationwide decree banning forced renunciations of faith, did not end the physical abuse of religious believers, continued to hold a significant number of religious prisoners, and although it permitted the re-opening of some

churches closed in the Central Highlands in 2001, it refused to allow the re-opening and registration of hundreds of others. However, following CPC designation, some improvements in religious freedom were evident. Some religious leaders expressed cautious optimism about a new Ordinance on Religion that the Government released in November, and in December, the Evangelical Church of Vietnam North (ECVN) held its first National Congress in 20 years and named a new, independent leadership board. Among the gains in freedom of religion covered by the Country Reports, the Jehovah's Witnesses in Armenia succeeded in October to register with the government after they had experienced a string of rejected applications. In Bosnia and Herzegovina, a new state-level law on religious freedom passed both houses of the legislature. The law provides comprehensive rights to religious communities and confers a legal status upon them they had not held previously. And in Georgia, there were fewer reports of violence against minority religious groups this year.

TREATMENT OF MINORITIES, WOMEN AND CHILDREN

On December 30, the Department of State completed its Report on Global Anti-Semitism, July 1, 2003-December 15, 2004. Drawing extensively on material from our embassies, NGOs and accounts submitted for these Country Reports, this separate compendium was prepared in accordance with a separate legislative provision.

In the Czech and Slovak Republics, discrimination against Roma persisted, although both governments made efforts to improve the situation through such measures as revising legal norms and recruiting Roma to serve as community liaisons with the police forces or as health assistants.

In Croatia, the restitution of property to mostly Serb refugees has improved significantly, although local obstruction to the return of minority groups remained a problem. In Kosovo, acts of violence against the minority Kosovo Serb population and other non-Serb minorities took place during a series of riots over two days in March, demonstrating the continued tenuousness of minority rights there.

In Thailand, the government's human rights record was marred by abuses committed by security forces against Muslim dissidents in the southern part of the country. On April 28, elements of the police and military killed more than 100 persons while repelling attacks by Muslim separatists in Yala, Pattani, and Narathiwat provinces. On October 25, 78 Muslim detainees being transported to an army camp died from asphyxiation after police and military forces stacked them into overcrowded truck beds.

In Afghanistan and Iraq, women made unprecedented strides in exercising political rights by voting, holding public office and standing for election as candidates. In education and other areas as well, women made increasing strides in achieving basic rights. In Pakistan, special women's police stations with all female staff have been established in response to complaints of custodial abuse of women. Additionally, while honor killings continued in Pakistan, new legislation stiffened penalties for honor killings and criminal proceedings for the blasphemy laws and Hudood ordinances were changed to reduce abuses.

In a number of countries, one of the most significant problems related to the abuse of women and children is the failure of the state to combat vigorously against conditions that engender the trafficking of women and children.

In Burma, women and girls from villages were trafficked for prostitution at truck stops, fishing villages, border towns, and mining and military camps. Burmese men, women and children are also trafficked to other countries. Government economic mismanagement and forced labor policies worsen the situation.

In the United Arab Emirates (UAE), women and girls are used as prostitutes and domestic servants, and young boys are exploited as camel jockeys. A recent documentary on camel jockeys notes the very young age at which abuse often begins, the harsh conditions that may lead to serious injuries or death, and the malnutrition, and physical and sexual abuse by employers. The Government has pledged and taken some measures of limited effectiveness against these practices.

State promotion of tourism drives the predatory interests that promote sex tourism and sexual exploitation of underage girls for prostitution in Cuba.

The booming oil sector in Equatorial Guinea contributes to making the country both a transit point and destination for trafficking of women for prostitution.

The estimate of the number of Indians trafficked into forced labor and the sex trade runs into the millions, in addition to thousands of Nepalis and Bangladeshis trafficked to India for sexual servitude. Trafficking in persons in India is a significant problem, and some government officials participated in and facilitated the practice. While India continues to lack a national law enforcement response to its trafficking in persons problem, some progress has been noted in individual states and the central government recently expressed a commitment to establishing and implementing a national anti-trafficking policy.

Violence and discrimination towards vulnerable groups continued to be a problem in Tanzania. In August, the semi-autonomous island of Zanzibar outlawed homosexuality and set severe penalties for it in its autonomous island territory. On mainland Tanzania, 4 million women and girls have undergone female genital mutilation (FGM), and despite a law partially outlawing the practice, police rarely enforced the law and the average age of the practice appeared to have decreased in an effort to avoid detection.

WORKER RIGHTS

In Iraq, the exercise of labor rights remained limited, largely due to violence, unemployment, and maladapted labor organizational structures and laws, although, with international assistance, some progress was underway at year's end. According to the Brussels-based International Confederation of Free Trade Unions (ICFTU), workers reported organizing unions in workplaces where they were forbidden under the laws of the former regime and revitalized union structures previously dominated by the Ba'ath party. The International Labor Organization (ILO) provided technical assistance to Iraq throughout the year to help bring its labor laws into line with international labor standards, rebuild the capacity of the

Ministry of Labor and Social Affairs, establish emergency employment services, and put in place training and skills development programs.

In April, a Commission of Inquiry appointed under Article 26 of the ILO Constitution visited Belarus to investigate a complaint that the Government was systematically violating its obligations under the ILO's fundamental Conventions on freedom of association and protection of the right to organize and bargain collectively, both of which it has ratified. The Commission's report, issued in October, concluded that the country's trade union movement was subject to significant government interference. The Commission recommended that the government take all necessary steps to register independent unions, amend laws and decrees restricting freedom of association, protect independent trade unionists from anti-union discrimination, and disseminate the Commission's conclusions and recommendations. It stated that most of these recommendations should be implemented by June 2005 at the latest.

Under the leadership of President Bush the United States has stepped forward with its democratic allies to reaffirm our commitment to human rights and democracy. We rest upon the principle that nations governed by free people will be the cornerstone for the development of a world that is more peaceful for all. The execution of our democratic duty depends on the determination and passion of its promoters. Let the following Country Reports serve as an indicator of the progress made and as a guide for the challenges ahead.

NEAR EAST AND NORTH AFRICA

ALGERIA

Algeria is a multi-party republic based on a constitution and a presidential form of government. The head of state is elected by popular vote to a 5-year term. The President has the constitutional authority to appoint and dismiss cabinet members, as well as the prime minister, who acts as the head of the Government. The president also serves as Commander in Chief of the Armed Forces. President Bouteflika, elected in 1999 in an uncontested election, completed a full term in office, the first president to do so since the adoption of the multi-party system in 1989. In Algeria's first democratic, contested presidential elections, he was re-elected in April from among five other candidates while the military remained neutral.

The security apparatus comprises the army, consisting of ground, naval, and air defense forces; the national gendarmerie; the national police; communal guards; and local self-defense forces. All of these elements were involved in counterterrorism operations. The Ministry of National Defense and the Ministry of the Interior oversee the maintenance of order within the country. The military has traditionally influenced government decisions beyond defense and foreign policy and is widely believed to have orchestrated the outcome of the 1999 presidential elections. More recently, however, with increased civic peace and the president's re-election, there has been a trend toward more civilian control, a reduced role for the military in day-to-day decision-making, and an increased military focus on modernization and professionalism. During the April elections, the Armed Forces Chief of Staff ordered all members of the military to maintain strict political neutrality, and a law was passed ending military/security force voting in their barracks, a practice that was thought to have been a source of voting irregularities in previous elections. Although the Constitution provides for an independent judiciary, it continued to be restricted by executive influence and internal inefficiencies. While the Government generally maintained effective control of the security forces, there were some instances in which security force elements acted independently of government authority. Some security force members committed serious human rights abuses.

Algeria is emerging from over a decade of terrorism and civil strife in the 1990s, in which between 100,000 and 150,000 persons were estimated to have been killed. It is making a slow, uneven, and incomplete transition from a military-dominated state with a state-administered economy toward democracy and an open market economy. The country has a population of approximately 33 million. The hydrocarbon sector was the backbone of the economy, accounting for 55 to 60 percent of budget revenues, 35 percent of Gross Domestic Product, and over 95 percent of export earnings. Government statistics put the economic growth rate at 6.8 percent. Unemployment has been estimated at 20 to 30 percent; for citizens between the ages of 20 and 30, unemployment is even higher.

The Government's human rights record remained poor overall and worsened in the area of press freedoms; however, there were significant improvements in some areas. There continued to be problems with excessive use of force by the security forces as well as failure to account for past disappearances. New allegations of incidents and severity of torture continued. Citing the country's ongoing struggle against armed terrorist groups, civilian and military police arbitrarily detained and arrested persons and incommunicado detention continued. The Government routinely denied defendants fair and expeditious trials. Despite judicial reforms, prolonged pretrial detention and lengthy trial delays were problems. Denial of defendants' rights to due process, illegal searches, and infringements on privacy right also remained problems. The Government did not always punish abuses, and official impunity remained a problem. The Government continued to restrict freedoms of speech, press, assembly, association, and movement during the year. The use of defamation laws and government harassment of the press significantly increased, lead-

ing to the imprisonment of several journalists for terms ranging from 2 to 24 months, the closure or suspension of two newspapers, and more self-censorship by the press. The Government also continued some restrictions on freedom of religion. Domestic violence against women, the Family Code's limits on women's civil rights, and societal discrimination against women remained serious problems. Child abuse was a problem. Despite the Government's recognition of Tamazight as a national language, restrictions on Amazigh (Berber) ethnic, cultural, and linguistic rights continued to provoke occasional demonstrations. Child labor was a problem in some sectors. The Government continued to restrict workers' rights by not officially recognizing some unions.

Despite these problems, the Government took several notable steps to improve human rights. There was a significant reduction in reported abuses by the security forces. Government actions reduced the number of terrorism-related civilian deaths and strengthened the basic human right to life and security. The Government oversaw generally free fair elections, according to international observers, including a representative from the Organization for Security and Co-operation in Europe (OSCE). The government-appointed Ad Hoc Mechanism on the Disappeared recommended and the Government agreed to accept responsibility for unauthorized actions by security forces and pay indemnities to families of the disappeared. The Government also negotiated in good faith with the Berber group "Arouch" as part of its National Reconciliation plan. In October, the Government passed new Penal Code legislation criminalizing both torture and sexual harassment for the first time.

Terrorist groups committed numerous, serious abuses. Terrorists continued their campaign of insurgency, targeting government officials, families of security force members, and civilians. The death of civilians often was the result of rivalries between terrorist groups or to facilitate the theft of goods needed to support their operations. Terrorists used violence to extort money, food, and medical supplies. Terrorists also used vehicle-borne explosive devices to attack infrastructure targets and also used ambushes to attack military convoys. The violence occurred primarily in the countryside, as the security forces largely forced terrorists out of the cities. Successful operations by security forces helped to eliminate terrorist cells and leaders, weakened terrorist groups, and resulted in significantly lower casualty levels for the year.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Citing the Government's continued struggle against terrorism, security forces killed terrorists in armed confrontations. There were no politically motivated killings by the Government or its agents; however, communal guards killed one unarmed person allegedly without warning. The Government stated that, as a matter of policy, disciplinary action is taken against soldiers or policemen who are guilty of violating human rights. In December, Ali Tounsi, head of security forces in the Ministry of the Interior, announced that 300–400 police officers are dismissed every year due to stricter disciplinary standards and better recruitment. The Government did not routinely release specific information regarding punishments of military and security force personnel.

According to credible reports in May, adolescents Chouaib Argabi and Ali Remili stole food, hid it in a palm grove, and attempted to retrieve it in the night. In an area where armed militants are known to be active, Communal Guards (GLD) noticed their movements and allegedly fired without warning, killing Argabi, an ethnic Berber, and sparking demonstrations the next day (*see* Section 1.c.). No investigation was conducted into the incident, but the commander of the GLD denied his guards fired summarily.

The gendarme responsible for the death of a Kabylie youth that sparked the 2001 Black Spring was tried in 2002 by a military tribunal and sentenced in 2003 to 2 years in prison for involuntary homicide. He was released during the year (*see* Section 1.d).

No disciplinary action was taken in the March 2002 case where hundreds of persons died in riots between gendarmes and protesters and the April 2002 case in which numerous persons were injured and killed during street battles between Kabylie protesters and riot police.

During the year, security forces killed numerous suspected terrorists. In September, Interior Minister Zerhouni stated publicly that 450 terrorists had been killed, arrested, or had surrendered during the first 8 months of the year. According to press reports, an estimated 219 terrorists were killed and 444 arrested during the year.

Terrorists targeted both civilians and security forces. According to press reports, there were 93 civilian deaths at the hands of terrorists, compared to 198 in 2003. Terrorists were also responsible for the deaths of 117 members of the security forces, compared to 223 last year.

According to the Government, the total number of terrorist, civilian, and security force deaths during the year was approximately 429, compared to 1,162 in 2003.

Terrorist groups mainly targeted infrastructure and security forces. These groups also committed acts of extortion by carrying out violent reprisals against those who failed to pay a "tax." Other tactics included creating false roadblocks outside the cities, often by using stolen police uniforms, weapons, and equipment. Some killings, including massacres, also were attributed to revenge, banditry, and disputes over private land ownership. The violence appears to have occurred primarily in the countryside, as the security forces largely forced the terrorists out of the cities.

b. Disappearance.—During the year, there were no reports of politically motivated disappearances. There have been credible reports of thousands of disappearances occurring over a period of several years in the mid-1990s, many of which involved the security forces. The last known disappearance, according to local and international NGOs, occurred in 2002.

The total number of disappeared continued to be debated. Officially, the Government estimated that approximately 7,200 persons were missing or disappeared as a result of government actions and approximately 10,000 additional persons missing or disappeared as a result of terrorist kidnappings and murders. Local NGOs reported security forces played a role in the disappearances of approximately 8,000 persons. Amnesty International (AI), in its 2003 report, stated that 4,000 men and women disappeared from 1993–2000 after being arrested by members of the security forces or state-armed militias. In November, Farouk Ksentini, Director of the Ad Hoc Mechanism on the Disappeared, said that 5,200 cases of the disappeared were attributable to security force abuses. Human rights attorney Ali Yahia Abdenour placed the combined number of missing from both security force and terrorist actions, based on the testimony of family members, at 18,000, which is comparable to the official government estimation.

In 2003, local NGOs reported a trend of prolonged detentions ranging from 8 to 18 months that were frequently characterized as disappearances until the prisoners were released to their families. Disappearances resulting from prolonged detention or other factors remain contrary to the legal procedures stipulated in the country's Penal Code and its Constitution.

Nearly all of the disappearances remained unresolved. Local offices of the Ministry of Interior in each district accept cases from resident families of those reported missing. Credible sources stated that the offices provided little useful information to the families of those who disappeared. In September 2003, the Government announced the establishment of the Ad Hoc Mechanism on the Disappeared (the "Mechanism") and named Farouk Ksentini as director. Ksentini described the Mechanism as an interface between the Government and victims' families with the authority to request information from governmental agencies in order to research familial claims of disappearances. Ksentini has noted that the Mechanism is not an investigative body and cannot force the cooperation of other governmental agencies or the security forces.

In February, President Bouteflika publicly declared that the State must accept responsibility for the actions of security personnel, even though such actions were not authorized by Government policy. On April 28, the Mechanism provided President Bouteflika with recommendations for dealing with disappearances. One recommendation was that, for cases verifiable by the Mechanism's files, an indemnity should be paid to the families of the disappeared. According to Ksentini, the Mechanism had files on 5,000 such cases, although an NGO claimed in September that the Mechanism only had 300 files, despite the large numbers of disappearances and records maintained by local NGOs. In December, during Human Rights Day, President Bouteflika announced that the Mechanism would present further recommendations on the disappeared by March 2005.

Local human rights NGO groups severely criticized the Mechanism for its ineffectiveness during its 18-month mandate. NGOs were not invited to give any input related to the Mechanism's creation nor consulted for recommendations. However, the Mechanism has met, on a case-by-case basis, with individual NGOs that requested a meeting. NGOs also claimed the Mechanism could not provide any guarantee of its independence and impartiality. After some reflection, local NGOs generally welcomed indemnities in some form. However, local NGOs and family members of the disappeared continued to demand that the Government make greater efforts to lo-

cate the remains of the missing, investigate disappearances, determine responsibility, and to hold perpetrators accountable.

There were no reported prosecutions of security force personnel stemming from these cases. According to some local NGOs, the Government has refused to investigate cases for fear of raising criminal charges against security forces or other government officials. One group also claimed that the Government feared investigations leading to the prosecution of terrorists who received an amnesty under the Civil Concord would embarrass President Bouteflika, who has been a driving force behind the Concord and the policy of national reconciliation. In its 2003 report, Human Rights Watch (HRW) noted that the Mechanism's mandate fell short of holding perpetrators accountable and bringing them to justice. For courts to hear charges of disappearance, the law requires at least two eyewitnesses. Courts have therefore refused to consider several cases where a family member, as a single eyewitness to an abduction, had identified specific policemen as the abductors.

The Government asserted that the majority of reported disappearances either were committed by terrorists disguised as security forces or involved former armed Islamist supporters who went underground to avoid terrorist reprisals. However, there is no evidence that the Government investigated any of the 5,200 cases that it admitted were caused by security forces. Ksentini reiterated throughout the year previous statements that if security forces had played a role in the disappearances, it was due to the actions of individuals operating outside the scope of their superior's orders and not on the orders of any specific government institution. While acknowledging government responsibility for protecting its citizens, Ksentini said the Mechanism would forward evidence of responsibility to the judiciary for prosecution, but had not done so because there was not enough evidence in any case.

In October 2003, Salah-Eddine Sidhoum, physician and human rights activist, was acquitted of subversion and jeopardizing the State. Dr. Sidhoum had been convicted in absentia in 1997.

The Government also placed restrictions on the international NGO Freedom House's efforts to investigate the issue of the "disappeared." The Government required Freedom House to submit its proposed activities in advance for governmental approval. Government officials said technical assistance was welcomed, but no political activities would be allowed. As a result, some proposed activities were denied. The Government also denied visas to Freedom House associates, causing some events to be cancelled.

In November 2003, a suspected mass gravesite was discovered in Relizane and the personal effects of El Hadj Abed Saidane, who disappeared in 1996, were identified. The family of Saidane accused Mohamed Fergane, the former mayor of the local town and the head of a self-defense militia at the time of Saidane's disappearance. Fergane had previously been accused of being responsible for 212 forced disappearances between 1994 and 1997 by families of the disappeared. The Relizane prosecutor's office agreed to conduct an investigation into this case, but failed to do so after the remains were removed by unknown persons. Government authorities did not pursue an investigation into who was responsible for the removal of the remains.

In February 2003, the Salafist Group for Call and Combat (Groupe Salafiste pour la Predication et le Combat, or GSPC) kidnapped 38 foreign tourists in the southwestern part of the country but released them 6 months later after crossing into Mali. One of the hostages died from exposure.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Both the Constitution and legislation prohibit such practices; however, according to local human rights groups, defense lawyers, and media reports, security forces continued to use torture when interrogating persons.

Although torture had been denounced in the Penal Code, new legislation enacted in September criminalizes torture, and government agents may face prison sentences for up to 3 years for committing such acts. However, during the year, there were no reports of police or security forces receiving punishment for torturing suspects. Impunity remained a problem (*see* Section 1.d.).

Though human rights lawyers have stated that the incidence and severity of torture is on the decline—in part due to better training of the security forces and alternative intelligence gathering techniques—they maintained that torture still occurred in military prisons, more frequently against those arrested on "security grounds." Last year, the independent press reported that the "chiffon" method—placing a rag drenched in dirty water in someone's mouth—was the preferred method of torture because it left no physical traces of assault. In 2003, AI reported an increased number of accounts detailing the usage of the wet rag method.

In May, 24 adolescents were arrested in T'kout following demonstrations protesting the death of Chouaib Argabi (*see* Section 1.a.). Six of the adolescents alleged

to their lawyer that they were tortured and sexually abused by the gendarmerie during their detention. Their attorney, Salah Hanoun, reported to the press that he saw the physical proof of mistreatment and took photographs. During their trial, defense lawyers raised the issue of torture, but the judge refused any discussion of the matter.

In March 2003, according to AI, a 42-year-old restaurant manager from Bouira was tortured for 10 days at the military security center in the Ben Aknoun quarter of Algiers. He stated he was tied down and forced to swallow large quantities of dirty water, beaten, subjected to electric shocks, and forced to sign a statement "admitting" links to armed groups. He was remanded in pre-trial detention. The Government did not investigate his alleged torture.

No action was taken in the 2002 cases in which security forces allegedly tortured a shopkeeper in Surcouf or in which security forces tortured four members of the political party Rally for Democratic Culture (RCD) and their families.

Prison conditions generally met international standards, and the U.N. Development Program (UNDP) noted improved conditions in civilian and low security prisons as a result of prison reform efforts undertaken by the Ministry of Justice. The UNDP also worked with the Government to improve educational programs in prisons.

However, overcrowding, insufficient medical treatment, and the Government's continued refusal to allow international observers access to military and high security prisons remained problems. In October 2003, the media reported there was 1 doctor for every 300 prisoners. While the Government permitted visits by independent human rights observers to regular, non-military prisons, it did not permit visits to its military or high security prisons. In October, the International Committee of the Red Cross (ICRC) visited civilian prisons and pre-trial detention centers, but it was still barred from the country's military and high security prisons

Hunger strikes were held in several prisons throughout the country in protest over the length of detentions before trial.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, in practice the security forces continued arbitrarily to arrest and detain citizens, although reportedly less frequently than in previous years.

The national police or General Directorate for National Security (DGSN) falls under the control of the Ministry of the Interior. The Gendarmerie, under the Ministry of Defense, also performs police-like functions throughout the country. Police are generally effective at maintaining order throughout the country. Low levels of corruption do exist, especially in the customs police, but appear to be limited to individuals and not sanctioned by the state.

Impunity remained a problem, and the Government did not publicize the numbers, infractions or punishments of police officials. According to human rights attorneys, police officials, and local NGOs, most abuses of police authority occurred as a result of officers not following established guidelines for arrests.

The Ministries of Justice and Interior told AI in April 2003 that at least 23 gendarmes had been prosecuted and sentenced in military tribunals for "abusive use of firearms." However, the National Consultative Commission for the Promotion and Protection of Human Rights (Commission Nationale Consultative de Promotion et de Protection des Droits de l'Homme, or CNCPPDH) told the AI delegation that only one gendarme had been sentenced. The Government has not provided an explanation for this discrepancy.

The police are required to obtain a summons from the prosecutor's office in order to bring a person in to a police station for questioning.

Police may make arrests without a summons if they witness the offense taking place. Arrest warrants are only issued when a suspect is a flight risk. The Constitution requires that a suspect may be held in incommunicado pretrial detention for no longer than 48 hours before the prosecutor must determine if enough evidence exists to continue to hold or release them. If more time is required for gathering additional evidence, the police may request the prosecutor to extend the suspect's detention from 48 to 72 hours. In practice, the security forces generally adhered to the 48-hour limit in non-terrorism cases.

Persons accused of acts against the security of the state, including terrorism, may be held in pre-trial detention no longer than 12 days.

Prolonged pre-trial detention remained a problem. If the prosecutor determines enough evidence exists to pursue a trial and the suspect is also a flight risk or has committed a serious felony offence, the suspect may be held in investigative detention ("detention preventive") for 4 months with trial extensions not to exceed 16 months. Ksentini, CNCPPDH President, said that there has been an abusive use

of investigative detention by prosecutors and that its use should remain an exceptional measure according to law.

While in pretrial detention, detainees must be informed of their right to communicate immediately with family members, receive visitors, and to be examined by a doctor of their choice at the end of their detention. However, there have been frequent reports of these rights not being extended to detainees, and, in some cases, local NGOs and human rights attorneys noted that the detention period extended beyond the legal limit.

There is no system of bail, but in non-felony cases suspects are usually released on "provisional liberty" while waiting for their trial. Under provisional liberty, suspects are required to report weekly to the police station of their district and are forbidden from leaving the country.

Local prosecutors are required to grade the performance of police captains operating in their jurisdiction to ensure that they comply with the law in their treatment of suspects. Police captains subsequently grade their officers. In addition, any suspect can request a medical examination once on police premises or before facing the judge.

On August 10, Belaid Abrika, the leader of the autonomy-seeking Berber Arouch Citizen's Movement, was arrested by Tizi-Ouzou police during a protest at a hospital. The previous day, Abrika and 10 delegates of the Citizen's Movement had called on the mayor of Tizi-Ouzou to leave his position, as had been negotiated with the Government in January. The Mayor lodged a complaint against Abrika, who was arrested the following day. No arrest warrant was produced and no notification of the summons had been sent to Abrika, who spent 28 hours in jail. He was charged with participation in a riotous assembly and breaking the peace. The prosecutor placed Abrika on probation and forbade him from organizing or taking part in any type of meeting.

On November 1, President Bouteflika issued a presidential pardon to 3,822 prisoners on the occasion of the anniversary of the country's revolution. The prisoners released were convicted of petty crimes

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary was not independent in practice. Executive branch decrees and influence, interference by the Ministry of the Interior, and inefficiency within the justice system restricted the independence of the judiciary. The Government continued to utilize international technical assistance for the reform of its judiciary during the year. In March 2003 the legislature passed significant reforms to revise the role, power, and structure of the judiciary by granting more authority to prosecutors; by providing more specialized judicial functionality in creating law enforcement, administrative, and commercial courts; by initiating a thorough review of the civil and penal codes; and by establishing penitentiary reforms focusing on prisoner rights.

The judiciary is composed of the civil courts, which hear cases involving civilians facing charges not related to security or terrorism; and the military courts, which hear cases involving civilians facing security and terrorism charges. Long-term detentions of suspects awaiting trial continued as reported the previous year (*see* Section 1.d.).

The Constitutional Council reviews the constitutionality of treaties, laws, and regulations. Although the Council is not part of the judiciary, it has the authority to nullify laws found unconstitutional, to confirm the results of any type of election, and to serve as the final arbiter of amendments that pass both chambers of the parliament before becoming law. The Council has nine members: three of the members (including the council president) are appointed by the president; two are elected by the upper house of the Parliament; two are elected by the lower house of the Parliament; one is elected by the Supreme Court; and one is elected by the Council of State. Regular criminal courts try those persons accused of security-related offenses.

The Minister of Justice appoints judges who serve 10-year terms. The Minister of Justice may, according to the Constitution, remove judges for violations of the law or if they are involved in a situation that jeopardizes the reputation of justice.

According to the Constitution, defendants are presumed innocent until proven guilty. Trials are public, and defendants have the right to be present and to consult with an attorney, which is provided at public expense. Defendants can confront or question witnesses against them or present witnesses and evidence on their behalf. Defendants also have the right to appeal and the testimonies of minorities and women have equal individual weight.

However, government authorities did not always respect all legal provisions regarding defendants' rights, and they continued to deny due process. Women were denied equal rights in practice before the law due to the court's application of the

Family Code, based on Shari'a (Islamic law) (*see* Section 5). Defendants and their attorneys were sometimes denied access to government-held evidence relevant to their cases. There were no reports of political prisoners.

In February, Judge Mohamed Ras El Ain was permanently dismissed as a judge in a disciplinary hearing held by the Superior Council of Judges. Judge El Ain was not afforded due process during the trial. Among a number of procedural problems, Ras El Ain was denied access to the evidence of his disciplinary file. A request for a continuation to review the file was denied. Human rights lawyers and local and international press reported that Ras El Ain was brought up on disciplinary charges for criticizing the politicization of the judiciary and an October 2003 court decision preventing oppositionists within the National Liberation Front from holding a party congress.

f. Arbitrary Interference With Privacy, Family, Home or Correspondence.—The Constitution prohibits such actions; however, in practice government authorities at times infringed on citizens' privacy rights. The Government actively monitored the communications of political opponents, journalists, human rights groups, and suspected terrorists (*see* Section 4). Journalists from the independent press complained that emails sometimes took several days to deliver.

Unlike in previous years, there were no reports of violations of Ordinance 95–11, passed in 1995 to rescind the use of exceptional warrants accorded under the 1992 Emergency Law.

Armed terrorists entered private homes either to kill or kidnap residents or to steal weapons, valuables, or food (*see* Section 1.a.). Armed terrorist groups consistently used threats of violence to extort money from businesses and families across the country.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and press; however, in practice, the Government markedly increased restrictions on these rights. The Government's use of defamation laws to harass and arrest journalists, its closure of two papers for debts to the state-owned printing house, and its continued grant of an advertising monopoly to the state-owned advertising agency intimidated papers into practicing a degree of self-censorship. Although the press was able to criticize government shortcomings and to highlight pressing social and economic problems, it faced significant repercussions from the Government for doing so.

The law specifies that freedom of speech must respect "individual dignity, the imperatives of foreign policy, and the national defense." The State of Emergency decree gives the Government broad authority to restrict these freedoms and to take legal action against what it considers to be threats to the state or public order. These regulations were heavily applied throughout the year, and in some instances the Government targeted specific media organizations and their staff.

The country's independent media consisted of nearly 43 publications that supported or opposed the Government in varying degrees. Few papers have a circulation exceeding 15,000; however, the 7 largest papers had substantial circulations: El-Khabar (circulation 530,000), Quotidien d'Oran (circulation 195,000), Liberte (circulation 120,000), El-Watan (circulation 70,000), L'Expression (circulation 29,000), Djazair News (circulation 20,000) and Chorouk El-Youmi (circulation 9,000). Two French-speaking papers, El-Moudjahid and Horizons, and two Arab speaking papers, El-Chaab and El-Massa, are owned by the state. There were no newspapers owned by political parties, although several newspapers reflected a clear and often critical political perspective. Many parties, including legal Islamic political parties, had access to the independent press, in which they expressed their views without government interference. The three largest papers in circulation are owned and managed by employees. Opposition parties also disseminated information via the Internet and in communiques.

Radio and television are government-owned, with coverage favoring President Bouteflika and the Government's policies. Presidential candidates received equal amounts of time on the state-owned radio and television channels during the 3-week official campaign season prior to the April elections. However, both before the official campaign and in the period following the elections, opposition candidates were generally denied access to the public radio or television.

Satellite dish antennas are widespread, and millions of citizens had access to European and Middle Eastern broadcasting. While in the past the Government hindered the publication of some books related to Tamazight and Amazigh culture, during the year the Government began to print schoolbooks in Tamazight, through the introduction of a Tamazight curriculum in Tamazight-speaking provinces. Government-owned radio broadcast Tamazight language programming almost 24 hours a

day and government-owned television broadcast a nightly news bulletin in this language.

Restrictions were also placed on the international media, limiting its ability to report freely. In June, the Ministry of Communication closed the office of the Al-Jazeera television station for an unspecified period. The Government said the closure was related to "work it had to do on regulating foreign media offices" even though Al-Jazeera had been in the country since the 1990s. The Government's decision to close the station was made a week after an Al-Jazeera broadcast that criticized high-ranking officers who worked in the French army during the war for independence; criticized the president's national reconciliation policy; and aired the results of a poll that indicated 72 percent of viewers felt there had been no improvement in the country's economic, social, and political situation. During a June press conference, Prime Minister Ahmed Ouyahia called Al-Jazeera "a channel whose sole aim was to tarnish Algeria's image." Reporters Without Borders (Reporters sans Frontieres, or RSF) condemned the decision and called for a lifting of the ban. Although the station is still available to viewers, the Government continued to deny accreditation to its, journalists, and the office remained closed at year's end.

In February, the Ministry of Communication and Culture prevented the distribution of an issue of the French magazine Jeune Afrique l'Intelligent. The issue contained the article "Who the Generals Vote For," which speculated on the private involvement of generals in supporting presidential candidates. RSF issued a communiqué condemning the censorship. Additionally, the March edition of Le Monde Diplomatique, with the articles "Algeria: From Terror to Normalization" and "The Cogs of A Secret War," was prevented from reaching newsstands. The Government did not offer any explanation for the ban.

Two foreign journalists were denied re-accreditation. In February, Christian Lecompte of the Swiss journal Le Temps Suisse was denied re-accreditation after publication of his critical article "Bouteflika Dictator." Ahmed Megaache of Dubai-based Al-Arabiya television was also denied re-accreditation after having covered several stories on press harassment, a 2003 teachers' strike, Ali Benflis' presidential campaign, and discontent in the Kabylie.

In March, for the first time since the 1992 State of Emergency, the Government granted increased freedom of movement to foreign journalists covering an election by permitting them to decline a "security detail." Journalists were able to move without a police escort on condition that they sign a liability waiver with the Government.

There was a marked increase in the level of harassment, arrest, and intimidation towards journalists following President Bouteflika's presidential victory. Human rights observers and media watch groups viewed this year's increased press harassment as politically motivated, targeting journalists that were critical of President Bouteflika and the Minister of the Interior, Norredine Zerhouni.

The law permits the Government to levy fines and jail time against the press in a manner that restricts press freedom. The most common form of harassment was through the use of defamation laws. The Penal Code imposes high fines and prison terms of up to 24 months for defamation or "insult" of government figures, including the President, members of Parliament, judges, members of the military and "any other authority of public order." Those convicted face prison sentences that range from 3 to 24 months and fines of 50,000 to 500,000 dinars ($704 to $7,042). During the year, at least 10 prosecutions occurred under the Penal Code. Djamel Benchenouf, Farid Allilat, and Ali Dilem from Liberté; Mohamed Benchicou and Sid Ahmed Semiane from Le Matin; Hafnaoui Ghoul of Djazair News; and Ali Boughanem, Mohamed Bouhamidi, and Kamel Amarni from le Soir d'Algerie were all charged for libel or slander under the Penal Code.

Four journalists were imprisoned for the first time, unlike in previous years when only fines were imposed. The most prominent case was against Mohamed Benchicou, the managing editor of the opposition paper Le Matin and author of a book critical of the president, "Bouteflika—An Algerian Imposter." In February, plainclothes policemen instructed several bookstores not to display Benchicou's book or attempt to sell it; otherwise their copies would be seized. According to the independent press, Minister of the Interior Zerhouni ordered the police to conduct an investigation to determine the publisher of the book and to take all measures to prevent the book from being marketed. Police searched vehicles and the headquarters of Le Matin for copies of the book. Others were detained for questioning by plainclothes policemen in Algiers: Saida Azzouz, a journalist for Le Matin; Ali Dilem, the cartoonist for Liberte; and Hamou L'hadj Azouaou, a chauffeur for Le Matin. While no official reason was given for their detention, the police questioned them about the book and seized their copies.

Benchicou was also sentenced to 2 years in prison and fined for violating foreign exchange controls. In August 2003, after returning from abroad, Benchicou's luggage was searched and 13 cash receipts worth 11.7 million dinars ($167,142) were discovered. The point of law in question was debatable since the money remained in a local bank, not with Benchicou. His 2-year sentence was upheld on appeal, and his fine was tripled. Benchicou was also charged with six counts of defamation, five of which were still pending at year's end, and the sixth resulting in a fine of 50,000 dinars ($684).

In May, Hafnaoui Ben Ameur Ghoul, a journalist for el-Youm and a member of the Algerian League for the Defense of Human Rights (LADDH), was arrested and sentenced two days later to 6 months in prison and fined 50,000 dinars ($704). In June, he was sentenced in another defamation case to 2 months in prison and 10,000 dinars ($140). Ghoul's defamation cases were related to articles alleging that the governor of Djelfa and others in his administration mismanaged funds and were involved in a public health crisis. Ghoul's appeals resulted in an even harsher punishment of 3 months in prison and a fine of 100,000 dinars ($1,400) in the first case; and 3 months in prison, 10,000 dinars in fines, and 100,000 dinars in damages in the second case. There were approximately 30 other charges of defamation still pending against him. Ghoul was also given an additional 2-month sentence in August for passing a letter to his daughter via another journalist during a court hearing rather than through the prison authorities. Ghoul conducted a hunger strike in August that postponed the appeal of this latter case. On October 3, Ghoul was sentenced to an additional 3 months in prison. He was released on November 24 after serving 6 months out of a combination of sentences amounting to 11 months.

Ahmed Benaoum, Ahmed Oukili, and Ali Djerri were also given jail sentences. Additionally, Kamel Gaci and several other journalists and editors were charged with defamation and given fines and/or probation throughout the year. Kamel Gaci was also charged with "failing to report a fugitive" after his meeting with a former police officer who had escaped from prison and wanted to speak to him.

In February, the imam of a mosque in Constantine verbally attacked the independent press, in particular the newspaper Liberte, during the Friday sermon broadcast on state-owned television and radio. Similar pleas were heard during sermons in Batna, Khenchela, Guelma, and Algiers. The Government controls the mosques and directs the content of sermons. Minister of Religious Affairs Bouabdellah Ghoulamallah told Reuters news agency that the Government did counsel the imams about the content of their sermons, but only with respect to religious concepts. Prime Minister Ouyahia called the sermon "a regrettable event."

In December, an imam from an Algiers mosque accused journalists from the independent press, particularly the journal El-Watan, of being "missionaries of the Christian church in Algeria" and exhorted his followers to boycott the independent press. He also said, "the journalists deserved to be stoned to death."

All newspapers are printed at government-owned presses, and the Government continued to exercise pressure on the independent press through the state-owned advertising company, Agence Nationale d'Edition et de Publicite (ANEP), which decided which independent newspapers could benefit from advertisements placed by state-owned companies. Unlike in previous years, government agencies had to channel all their advertising through ANEP, which in turn decided in which papers to purchase ad space for the various agencies. This move gave ANEP, and therefore the Government, centralized control over the largest source of potential income for Algerian newspapers, putting ad placement in the hands of ANEP instead of individual agencies.

According to a 1994 inter-ministerial decree, independent newspapers may print security information only from official government bulletins carried by the government-controlled Algerian Press Service (APS). However, independent newspapers openly ignored the directive. Since 2002, the Government has been more open and factual regarding security information. This trend continued this year.

Most independent newspapers continued to rely on the Government's four publishers for printing presses and newsprint. In July, SIMPRAL, the Algiers-based government publisher, stopped printing Le Matin for its failure to pay a debt of 38 million dinars ($535,200). The paper was out of business by September.

The Government imposed restrictions on the international media's coverage of issues relating to "national security and terrorism." In July 2003, the Government deported four journalists for their coverage "outside of their hotel rooms" of released political prisoners Ali Belhadj and Abassi Madani. The Government threatened similar action against others who violated the guidelines of the Ministry of Communication communiqué forbidding media coverage of the prisoners' release (*see* Section 1.d.).

Unlike in previous years, the independent press reported openly about allegations of torture, government corruption, and human rights abuses. There also was significant coverage of NGO activity aimed at publicizing government abuses committed in the past.

The Government generally did not restrict academic freedom. A growing number of academic seminars and colloquiums occurred without governmental interference. However, there were extensive delays in issuing visas to international participants and instances of refusal to allow international experts into the country (*see* Section 4).

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of assembly; however, the Emergency Law and government practice sharply curtailed this right. Citizens and organizations were required to obtain permits from their appointed local governor before holding public meetings. The Government frequently granted licenses to political parties, NGOs, and other groups to hold indoor rallies, although licenses were often granted only a few days before events were to take place, thus impeding event publicity and outreach.

A decree issued in 2000 continued to ban demonstrations in Algiers. In January, 200 citizens including members of parliament and former ministers were clubbed by riot police when they tried to march from the Parliament to downtown in protest of a court decision invalidating the National Liberation Front (FLN)'s Eighth Party Congress (*see* Section 3). As a result, several persons were injured or hospitalized.

Despite official restrictions, the Government tolerated numerous marches, protests, and demonstrations during the year in other parts of the country. In May, the citizens of Beni Mered in the province of Blida staged a sit-in in front of the municipality headquarters to protest a housing list giving some people preferential treatment.

In May and June, riots took place in the district of Les Genets in the Berber province of Tizi-Ouzou. Rioters protesting the arrest of a Berber youth placed barricades and set fire. The police were present, but did not intervene to avoid provoking a response. The protesters were detained for 8–10 hours and then released.

In July 2003 in Oran, members of an NGO working on disappearances, SOS Disparus, were forcibly dispersed during a protest seeking government redress of the question of the disappeared. Sixty persons were arrested, and police injured numerous individuals, including many women over the age of 40.

Every Tuesday morning throughout the year, families of the disappeared staged a sit-in before the Government's human rights ombudsman, the National Consultative Commission for the Promotion and Protection of Human Rights (Commission Nationale Consultative de Promotion et de Protection des Droits de l'Homme, or CNCPPDH). The police did not intervene to break up the demonstrators, the majority of whom were older women. Approximately 200 family members of disappeared persons also attempted to hold a march on October 5, but were prevented from doing so by riot police.

The Constitution provides for the right of association; however, the Emergency Law and government practice severely restricted this right. The Interior Ministry must approve all political parties before they may be established (*see* Section 3). The Government restricted the registration of certain NGOs, associations, and political parties on "security grounds," but refused to provide evidence or legal grounds for its refusal to authorize other organizations that could not be disqualified under articles pertaining to national security. The Government frequently failed to grant official national recognition to NGOs, associations, and political parties in an expeditious fashion. SOS Disparus, as well as the Democratic Front of Sid-Ahmed Ghezali and the Wafa party of Ahmed Taleb Ibrahimi are still not officially recognized.

The Government issued licenses to domestic associations, especially medical and neighborhood associations. The Interior Ministry reported that many inefficient associations, especially cultural ones, died out due to poor management, poor finances, and lack of interest. Youth, medical, literacy, and neighborhood associations continued to benefit from government support and the interest of members. The Interior Ministry regarded those organizations unable to attain government licenses as illegal. Domestic NGOs were prohibited from receiving funding from abroad, although this restriction was unevenly enforced.

The Southern Movement for Justice (SMJ) was organized in March with the objective of creating political awareness for politicians to address the South's high rates of poverty, illiteracy, and unemployment. In October, the Government arrested several SMJ members for organizing meetings of a non-recognized association following two peaceful protests.

The Ministry may deny a license to, or dissolve, any group regarded as a threat to the Government's authority, or to the security or public order of the State. After

the Government suspended the parliamentary election in 1992, it banned the FIS as a political party, and the social and charitable groups associated with it (*see* ion 3). Membership in the FIS, although a defunct organization, remained illegal.

In September 2003, police forces in Algiers arrested and physically assaulted Arouch delegate Belaid Abrika during the breakup of a public rally before the Court of Algiers held to protest government actions against the independent press (*see* Sections 2.a. and 2.b.). Abrika was taken into custody and after refusing to state his name, beaten so severely that upon his release, doctors at Mustapha Hospital ordered him to undergo 21 days of bed rest. At the same rally, police detained a noted human rights attorney. Credible sources report that three police officers had to be restrained from attacking the individual once witnessing officers recognized him.

c. Freedom of Religion.—The Constitution declares Islam to be the state religion and prohibits discrimination based on various individual liberties; however, the Constitution does not specifically prohibit religious discrimination. In practice, the Government generally respected religious freedom; however, there were some restrictions. The law prohibits public assembly for purposes of practicing a faith other than Islam, prohibits proselytizing, and controls the importation of religious materials. However, the Government follows a de facto policy of tolerance by allowing, in limited instances, the conduct of religious services by registered non-Muslim faiths which are open to the public.

The Government requires organized religions to obtain official recognition prior to conducting any religious activities. The Protestant, Roman Catholic, and Seventh-day Adventist churches are the only non-Islamic faiths authorized to operate in the country. Members of other religions, particularly protestant Evangelicals, are forced to operate without government permission or register as a part of the Protestant Church. According to the Ministry of Religious Affairs, the Ministry of the Interior is responsible for determining the punishment against a non-recognized religion.

Islamic law (Shari'a) does not recognize conversion from Islam to any other religion; however, conversion is not illegal under civil law. Because of safety concerns and potential legal and social problems, Muslim converts practiced their new faiths clandestinely. There are no specific laws against proselytizing; however the Government can consider proselytizing as a subversive activity. The Government restricted the importation of non-Islamic religious literature for widespread distribution, although it did not restrict such materials for personal use. Over the last few years, non-Islamic religious texts and music and video selections have become easier to locate for purchase. However, restrictions on the importation of Arabic and Tamazight-language translations of non-Islamic texts were periodically enforced. The government-owned radio station provided broadcast time to a Protestant radio broadcast. The Government prohibited the dissemination of any literature portraying violence as a legitimate precept of Islam.

The Ministries of Education and Religious Affairs strictly require, regulate and fund the study of Islam in public schools. The Government monitored activities in mosques for possible security-related offenses, barred their use as public meeting places outside of regular prayer hours, and convoked imams to the Ministry of Religious Affairs for "disciplinary action" when deemed appropriate. The Ministry of Religious Affairs provided financial support to mosques and paid the salaries of imams. The Ministry of Religious Affairs frequently appointed selected imams to mosques throughout the country, and the law allows it to pre-screen religious sermons before they are delivered publicly. (*see* Section 2.a.).

The Penal Code provides prison sentences and fines for preaching in a mosque by persons who have not been recognized by the Government as imams. Persons (including imams recognized by the Government) were prohibited from speaking out during prayers at the mosque in a manner that was "contrary to the noble nature of the mosque or likely to offend the cohesion of society or serve as an apology for such actions."

There were no anti-Semitic incidents during the year, although anti-Semitic political commentary appeared periodically in the Arabic-language press without government response. The Government did not promote tolerance or anti-bias education, and there is no hate crime legislation.

The country's decade-long civil conflict has pitted self-proclaimed radical Muslims belonging to the Armed Islamic Group and its later offshoot, the Salafist Group for Call and Combat (Groupe Salafiste pour la Predication et le Combat, or GSPC), against moderate Muslims. Radical Islamic extremists have issued public threats against all "infidels" in the country, both foreigners and citizens. As a rule, the majority of the country's terrorist groups did not differentiate between religious and political killings.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for freedom of domestic and foreign travel, and freedom to emigrate; however, the Government sometimes restricted these rights in practice. The Government does not permit young men who are eligible for the draft and who have not yet completed their military service to leave the country if they do not have special authorization; however, such authorization may be granted to students and to those persons with special family circumstances.

Under the State of Emergency, the Interior Minister and the provincial governors may deny residency in certain districts to persons regarded as threats to public order. The Government also maintained restrictions on travel into the four southern provinces of Ouargla, El-Oued, Laghouat and Ain-Salah where much of the hydrocarbon industry and many foreign workers were located, to enhance security in those areas.

The police and the communal guards operated checkpoints throughout the country. They routinely stopped vehicles to inspect identification papers and to search for evidence of terrorist activity. They sometimes detained persons at these checkpoints.

Armed bandits and terrorists intercepted citizens at roadblocks, often using stolen police uniforms and equipment to rob them of their cash and vehicles. On occasion, armed groups killed groups of civilian passengers at these roadblocks (*see* Section 1.a.). Such acts were not performed or imposed by government forces.

The Family Code does not permit married females younger than 18 years of age to travel abroad without their guardian's permission (*see* Section 5).

Neither the Constitution nor the law provides for forced exile, and it was not known to occur.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status and asylum. There were no reports of the forced return of persons to a country where they feared persecution. The Government provided temporary protection to approximately 160,000 refugee Sahrawis, former residents of the Western Sahara who left that territory after Morocco took control of it in the 1970s. The office of the U.N. High Commissioner for Refugees (UNHCR), the World Food Program (WFP), the Algerian Red Crescent, and other organizations assisted Sahrawi refugees. The Government cooperated with UNHCR and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to peacefully change their Government; however, there are limitations on this right in practice. The Constitution also mandates presidential elections every 5 years.

For the first time since the end of the one-party system and after more than a decade of civil strife and continuing acts of terrorism, a sitting president not only completed his full 5-year term of office, but was re-elected in a contested election of transparency which was unprecedented for the country; however, the election and the electoral system were not without flaws. President Bouteflika was re-elected in April to his second term, winning approximately 85 percent of the vote according to the official results. Voter participation was 58 percent, remaining steady from the 1999 elections and reflecting stable public confidence in the political process, which had steadily dropped over the past decade.

Unlike previous elections, there was marked improvement towards a more free and transparent electoral process. The military was generally neutral in the election, upholding the Chief of Staff's promise not to intervene and abiding by a January electoral reform law that eliminated the practice of voting in barracks a day before the "general vote." Six candidates representing parties with a wide-range of political views participated, and they were able to campaign publicly on television and radio. A woman also ran for president for the first time in the country's history. Unlike in 1999, the candidates did not drop out on the eve of the election; and for the first time, candidates and party representatives were able to review the voter lists prior to the election. The lists were made available to the heads of political parties on CD-ROM, reducing the possibility of election fraud. An election observer from the Organization for Security and Cooperation in Europe stated in a press conference that the election was generally free and fair, though not without flaws.

Problems with the electoral system persisted. The Administrative Court of Algiers was criticized among the country's political class and independent media for having invalidated the National Liberation Front's Eighth Party Congress. The invalidation was viewed as politically motivated and a setback to the president's main opponent, former Prime Minister and FLN Secretary-General Ali Benflis, because the party representatives chosen during the Eighth Party Congress were Benflis supporters. The invalidation also froze the FLN's bank accounts.

Opposition candidates also complained that the Ministry of the Interior regularly blocked registered parties from holding meetings; denied them access to larger and better equipped government conference rooms; and pressured hotels into not making conference rooms available, while facilitating the activities of the pro-Bouteflika FLN. According to the Constitutional Council, which validates election results and determines whether candidates meet all the requirements, three potential candidates did not receive sufficient numbers of signatures for placement of their names on the ballot. Two candidates claimed the Council's invalidation of their signatures was politically motivated, but they were unable to provide any evidence of fraud. Despite opposition candidates' access to the state-controlled media during the official 3-week election campaign period, they were systematically denied similar access both before the campaign and following the election.

Furthermore, the incumbent's ability to use state largesse in government work projects in every wilaya to amass political support 8 months before the election created inequitable campaign advantages. Additionally, opposition candidates, primarily the (Islamist) "Islah" or Renaissance Party, expressed concern over potential tampering of the voter lists. Candidates filed numerous complaints that the lists were neither alphabetized nor classified by voting station or gender; that the lists did not conform to the electoral lists used during election day (which comprised full name, date and place of birth, and address for each voter); and that the number of voters on the list was inflated. The Electoral Commission made hundreds of corrections based on these filed complaints.

In April 2003, Prime Minister Benflis resigned and was replaced by the head of the RND Party, Ahmed Ouyahia. Prime Minister Ouyahia maintained the same cabinet until September 2003 when there was a reshuffle of FLN ministers. In April, following the presidential election, Prime Minister Ouyahia presented his resignation as required by the Constitution and was reappointed as Prime Minister with a new cabinet.

The country has a bicameral parliament consisting of the 389-seat National People's Assembly (lower house) and the 144-seat Council of the Nation (upper house or Senate). All members of the Assembly are elected by popular vote to 5-year terms. In the Council, two-thirds of the members are elected by the regional assemblies (the Popular Communal Assemblies and the Popular State Assemblies), and the remaining one-third is appointed by the President; all members serve 6-year terms, and the Constitution requires that half the elected portion of the Council and one-third of the appointed portion be replaced every 3 years. The Constitution provides the President with the authority to rule by executive order in special circumstances. In cases when Parliament is not in session, the President has the right to legislate by order. However, he must submit the executive order to Parliament for approval upon its return, first to the Assembly then to the Council. If the Assembly disapproves the executive order twice, the President must dissolve the Assembly. Assembly elections were held in May 2002, and indirect elections for the Council of the Nation were held in December 2003.

The law requires that potential political parties receive official approval from the Interior Ministry before they may be established. To obtain approval, a party must have 25 founders from across the country whose names must be registered with the Interior Ministry. The Government has refused to register two parties: Wafa and Front Democratique. No party may use religion, Amazigh heritage, or Arab heritage as a basis to organize for political purposes. The law also bans political party ties to nonpolitical associations and regulates party financing and reporting requirements.

In December 2003, indirect elections for one-third of the Council of the Nation (upper house) were held. The National Democratic Rally (RND) won 17 seats, and the FLN won 22 seats (split evenly amongst Benflis and Bouteflika supporters). The two conservative Islamic parties, MSP and El Islah, won four and two seats respectively, marking the first time members from Islamic parties have been elected to the Council. One independent member was also elected. Members of the regional assemblies in the Kabylie wilayats of Tizi-Ouzou and Bejaia did not participate due to their longstanding boycott of national elections.

Corruption in the executive and legislative branches of Government continued to be a serious problem. There are anti-corruption regulations in the Penal Code that

call for prison sentences of up to 2 years and increase to up to 10 years' imprisonment for high executives; however, they are not widely implemented. During the year, the Government established a new anti-money laundering law and installed a financial intelligence unit to aid in the fight against corruption.

There is no government transparency in the country. The Government routinely does not provide any access to government information.

There were 32 women serving in senior positions in the executive and legislative branches. There were four women in the Cabinet: as Minister of Culture; and as Minister Delegates for Family and Female Condition, for the Algerian Community Living Abroad, and for Scientific Research. Women also held 24 of the 389 seats in the lower house of Parliament and 4 of the 144 seats in the upper house. In 2002, women held 19 seats in the lower house and 6 seats in the upper house, and held 5 ministerial positions during President Bouteflika's first term. A woman led the Workers' Party, and all the major political parties except the Islah Party had women's divisions headed by women.

The ethnic Amazigh minority of about 9 million centered in the Kabylie region participated freely and actively in the political process and represented one-third of the Government; however, Amazigh protests and boycotts surrounding the May and October 2003 and the April elections underscored the economic and social neglect felt by many in this community, which makes up nearly one-third of the overall population.

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

A number of domestic and international human rights groups were not able to operate without government interference while trying to investigate and publish their findings on human rights cases. The Government continued to harass local NGOs, and it utilized bureaucratic hurdles to impede the work of international NGOs. While some human rights groups were allowed to move about freely, the most active and visible organizations reported harassment by government authorities, including surveillance and monitoring of telephone services, arbitrary detention, questionable and repeated police summonses, and false arrest (*see* Section 1.f.). Domestic NGOs must be licensed by the Government and are prohibited from receiving funding from abroad, although they may receive donations in-kind. Some unlicensed NGOs operated openly. International NGOs continued to experience visa delays or refusals.

The most active independent human rights group was the Algerian League for the Defense of the Rights of Man (LADDH), an independent organization that had members throughout the country; however, the LADDH was not permitted access to government officials for human rights advocacy or research purposes, or to prisons, except for normal consultations allowed between lawyer and client.

The less active Algerian League for Human Rights (LADH) is an independent organization based in Constantine. LADH has members throughout the country who followed individual cases. In September 2003, Mohamed Smain, President of LADH, was summoned to the local police precinct and arrested without charge. The presiding judge dismissed the court case the following day. Smain had been sentenced to 1 year in prison for the defamation of the mayor of Relizane and eight members of its local self-defense force. He alleged in a published report on human rights abuses that his nine accusers had participated in the abduction, torture, killing, and disappearance of dozens of people. Smain was granted "provisional liberty" the same year while the Supreme Court reviewed his case.

Visits by international human rights NGOs occurred both at the invitation of the Government and independently, when the Government chose to issue visas. Representatives of the National Endowment for Democracy, Freedom House, and Global Rights all visited the country during the year. However, numerous international human rights groups continued to encounter visa difficulties following the publication of reports deemed critical of the Government. Difficulty with obtaining visas also occurred when groups intended to hold meetings, conferences, or workshops related to what the Government considered sensitive issues, such as disappearances or electoral reform. The Moroccan employees of Global Rights experienced lengthy visa delays that forced them to cancel several meetings in the first quarter of the year. Representatives of the Fund for Global Human Rights and the International Foundation for Election Systems were denied visas in September. The Ministry of Foreign Affairs denied Freedom House (FH) permission to open an office in Algiers until, according to an official at the MFA, FH wrote a more "balanced" annual report. The Government also told FH that its activities related to disappeared persons would be approved on a case-by-case basis. FH was also forced to cancel a seminar on disappearances because some of the seminar participants' visa applications were

denied. Representatives of Human Rights Watch and Amnesty International were also denied visas during the year.

The ICRC has full access to civilian prisons and pre-trial detention centers; however, it has not been granted access to the country's military or high-security prisons (*see* Section 1.c.).

The Government continued to deny requests for visits from the U.N. Working Group on Enforced or Involuntary Disappearances, the U.N. Special Rapporteur on Torture, and the U.N. Special Rapporteur on Extra-judicial Executions. The U.N. Rapporteur on the Freedom of Religion was allowed to visit the country in September 2002.

The government-established Consultative Commission for the Protection and Promotion of Human Rights (Commission Nationale Consultative de Promotion et de Protection des Droits de l'Homme, or CNCPPDH) is its Ombudsman for human rights. Directed by Farouk Ksentini, the Commission is made up of 45 members, 22 of whom belong to governmental bodies and 23 of whom come from civil society and NGOs. The nongovernmental members include representatives of Islamic religious organizations, the Red Crescent Society, and women's rights advocacy groups. The President approves nominees, and the Commission's budget and secretariat come from his office. The Commission is mandated to report on human rights issues, coordinate with police and justice officials, advocate domestic and international human rights causes, mediate between the Government and the population, and provide expertise on human rights issues to the Government.

In December, Ksentini announced that the Government was considering working more closely with international and local NGOs. He mentioned, however, that it was important for NGOs to cooperate and "not interfere in the country's domestic affairs."

In September 2003, the President announced the creation of a government commission dedicated to the issue of the disappeared and named Farouk Ksentini to head the body, which would serve as an "Ad Hoc Mechanism" between the families of the disappeared and the Government (*see* Section 1.b.). Both the CNCPPDH and the Ad Hoc Mechanism were perceived to be government-influenced and not effective, lacking investigative or enforcement powers. Their reports go directly to the President of the Republic and are not made public.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination based on birth, race, sex, language, and social status; however, women continued to face legal and social discrimination.

Women.—Spousal abuse was common. In March, the National Institute of Public Health hosted a seminar on violence against women. Seminar statistics showed that 69.5 percent of female victims of violence were housewives, 27 percent were illiterate, and that rape constituted more than 55 percent of all sexual assaults.

Spousal abuse was more frequent in rural than urban areas and also more frequent among less-educated persons. Spousal rape also occurred. Prison sentences for non-spousal rape range from 1–5 years; however, there are no specific laws against spousal rape. There are strong societal pressures against a woman seeking legal redress against her spouse for rape, and there were few reports of the law being applied in such cases. Battered women must obtain medical certification of the physical effects of an assault before they lodge a complaint with the police. Because of societal pressures however, women frequently were reluctant to endure this process. According to a study by the Ministry of Justice, women's associations, and the National Institute of Public Health, 70 percent of women refused to lodge a complaint.

SOS Femmes en Detresse and the Wassila Network are two prominent associations for women that have received recognition by the Government and the international community. Both groups provided judicial and psychological counseling to abused women. Women's rights groups experienced difficulty in drawing attention to spousal abuse as an important social problem, largely due to societal attitudes. There were several rape-crisis centers run by women's groups, but they had few resources. The Working Women section of the state union, the General Union of Algerian Workers (UGTA), established a counseling center with a toll free number for women suffering from sexual harassment in the workplace.

The law prohibits prostitution; however, for economic reasons, prostitution was reported to be a growing problem, according to the National Institute of Public Health.

Some aspects of the law and many traditional social practices discriminated against women. The Family Code, adopted in 1984 and based in large part on Shari'a, treats women as minors under the legal guardianship of a husband or male relative. Under the Code, Muslim women are prevented from marrying non-Muslims, although this regulation was not always enforced. The Code does not restrict Muslim men from marrying non-Muslim women. Under both Shari'a and civil law,

children born to a Muslim father are Muslim, regardless of the mother's religion. Divorce is difficult for a wife to obtain. Husbands generally obtain the right to the family's home in the case of divorce. Custody of the children normally is awarded to the mother, but she may not enroll them in a particular school or take them out of the country without the father's authorization. Only males are able to confer citizenship on their children.

The Family Code also affirms the Islamic practice of allowing a man to marry up to four wives, although this rarely occurs in practice. Approximately 5 percent of marriages are polygynous. A wife may sue for divorce if her husband does not inform her of his intent to marry another woman prior to the marriage.

Women suffered from discrimination in inheritance claims. In accordance with Shari'a, women are entitled to a smaller portion of an estate than are male children or a deceased husband's brothers. According to Shari'a, such a distinction is justified because other provisions require that the husband's income and assets are to be used to support the family, while the wife's remain, in principle, her own. However, in practice women do not always have exclusive control over assets that they bring to a marriage or income that they earn themselves. Married females under 18 years of age may not travel abroad without their husbands' permission. Married women may take out business loans and use their own financial resources.

Despite constitutional and legal provisions providing equality between men and women, in practice women still faced discrimination in employment resulting from societal stereotypes. Leaders of women's organizations reported that discriminatory violations are common. Labor Ministry inspectors did little to enforce the law.

Social pressure against women pursuing higher education or a career was greater in rural areas than in major urban areas. Women made up more than half of the university student population; however, women constituted only 19.7 percent of the work force. Nonetheless, women may own businesses, enter into contracts, and pursue careers similar to those of men. About 25 percent of judges were women, a percentage that has been growing in recent years.

There were numerous women's rights groups, although the size of individual groups was small. Their main goals were to foster women's economic welfare and to amend aspects of the Family Code.

Children.—Child abuse was a problem. Hospitals treat numerous child abuse cases every year, but many cases go unreported. Laws against child abuse have not led to notable numbers of prosecutions. NGOs that specialized in care of children cited continued instances of domestic violence aimed at children, which they attributed to the "culture of violence" developed since the civil conflict of the 1990s and the social dislocations caused by the movement of rural families to the cities to escape terrorist violence. One study performed by the National Institute of Public Health in 2002 reported that 62 percent of children have been victims of physical abuse.

Children continued to be victims of terrorist attacks. In one November incident in the wilaya of Relizane, a whole family, including children, was killed. In April, two children and their mother were killed by a homemade bomb.

The Government is generally committed to the welfare, rights, health and education of children. The Government provides free education for children through high school. Education is compulsory until the age of 16 and is free and universal. In 2004, more than 90 percent of children completed the ninth grade, on average the highest grade level normally attained by students. Boys and girls generally received the same treatment in education, although girls were slightly more likely to drop out of school in rural areas because of familial financial reasons, as sons were sometimes given educational priority over daughters. The girls were then sent to vocational training schools.

The Government provided free medical care for all citizens, albeit in often rudimentary facilities. The Ministry of Youth and Sports had programs for children, but such programs faced serious funding problems.

Economic necessity compelled many children to resort to informal employment, such as street vending (*see* Section 6.d.).

Trafficking in Persons.—The law does not prohibit trafficking in persons and there were reports that such practices occurred. The Government did not acknowledge trafficking to be a problem, as the Government is mostly concerned with the increasing rate of illegal immigration. According to the Government, laws against illegal immigration, prostitution, and forced labor are used to enforce anti-trafficking standards, in the absence of specific anti-trafficking laws.

According to media reports and a local NGO, forced prostitution and domestic servitude of illegal immigrants from West Africa occurred as immigrants transited through the country seeking economic opportunity in Europe. Official statistical esti-

mates of the severity of trafficking do not exist. Since the Government did not acknowledge trafficking to be a problem, there were no government assistance programs for victims or any information campaigns about trafficking.

Persons With Disabilities.—The Government did not mandate accessibility to buildings or government services for persons with disabilities. Public enterprises, in downsizing their work forces, generally ignored a law that requires that they reserve 1 percent of their jobs for persons with disabilities. Social security provided payments for orthopedic equipment, and some NGOs received limited government financial support.

Section 6. Workers Rights

a. The Right of Association.—About two-thirds of the labor force belonged to unions. Workers are required to obtain government approval to establish a union, and the Government may invalidate a union's legal status if its objectives are determined to be contrary to the established institutional system, public order, good morals or the laws or regulations in force. There were no legal restrictions on a worker's right to join a union. There is an umbrella labor confederation, the General Union of Algerian Workers (UGTA) and its affiliated entities. The UGTA encompasses national unions that are specialized by sector. The law on labor unions requires the Labor Ministry to approve a union application within 30 days and allows for the creation of autonomous unions, others than those affiliated to UGTA. However, attempts by new unions to form federations or confederations have been obstructed by delaying administrative maneuvers. The Autonomous Unions Confederation (CSA) has attempted since early 1996 to organize the autonomous unions, but without success. The CSA continued to function without official status.

The law prohibits discrimination by employers against union members and organizers and provides mechanisms for resolving trade union complaints of antiunion practices by employers. It also permits unions to recruit members at the workplace. Unions may form and join federations or confederations, affiliate with international labor bodies, and develop relations with foreign labor groups. For example, the UGTA is a member of the International Confederation of Free Trade Unions (ICFTU). However, the law prohibits unions from associating with political parties and also prohibits unions from receiving funds from foreign sources. The courts were empowered to dissolve unions that engaged in illegal activities.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to strike, and workers exercised this right in practice, subject to some conditions. The law provides for collective bargaining for all unions, and the Government permitted this right in practice for authorized unions. Under the State of Emergency, the Government can require public and private sector workers to remain at work in the event of an unauthorized or illegal strike. According to the Law on Industrial Relations, workers may strike only after 14 days of mandatory conciliation or mediation. The Government on occasion offered to mediate disputes. The law states that decisions reached in mediation are binding on both parties. If no agreement is reached in mediation, the workers may strike legally after they vote by secret ballot to do so. A minimum level of public services must be maintained during public sector service strikes.

The law provides that all public demonstrations, protests, and strikes must receive government authorization prior to commencement. Strikes and labor gatherings occurred throughout the year in various sectors, including the construction, medical, port facility, education, and customs sectors. The 2001 ban on marches in Algiers remained in effect.

In 2004, the ILO Committee of Experts requested the Government take steps through legislation to ensure that no provisions of Legislative Decree 92–03 were applied against workers peacefully exercising the right to strike. The decree defines as subversive acts, or acts of terrorism, those offenses directed against the stability and normal functioning of institutions through any action taken with the intention of "obstructing the operation of establishments providing public service" or of "impeding traffic or freedom of movement in public places." The Government did not act, claiming that the Decree was not directed against the right to strike or the right to organize and has never been used against workers exercising the right to strike peacefully.

The Government eliminated free trade zones in November; labor laws now apply equally throughout the country.

On June 6, the National Committee for Union Freedom (CNLS) gathered 8 autonomous unions in health, education, and public administration (unaffiliated with the UGTA) to denounce infringements on the unions' freedoms, the right to strike, and on union pluralism.

During August, workers at southern facilities of Sonatrach, the state-owned oil and gas production company, protested inadequate salaries and benefits.

On September 30, employers in the health sector began a weeks-long "unlimited" strike at the appeal of the National Federation of Health Sector Workers (FNTS), an affiliate of the UGTA. The federation sought increases in salaries and benefits. The National Union of Public Health Practitioners (SNPSP) went on strike on October 10, seeking salary increases of up to 80 percent.

c. Prohibition of Forced or Compulsory Labor.—Forced or bonded labor is prohibited by the Constitution's provisions on individual rights, and the Penal Code prohibits compulsory labor, including forced or compulsory labor by children. The Government generally enforced the ban effectively.

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum age for employment is 16 years. Inspectors from the Ministry of Labor supposedly enforced the minimum employment age by making periodic or unannounced inspection visits to public sector enterprises. They did not enforce the law effectively in the agricultural or private sectors. UNICEF reported in 2003 that approximately 3 percent of children worked in some capacity. No child labor was reported in the industrial sector; however, economic necessity compelled many children to resort to informal employment. Many children worked part time or full time in small workshops, on family farms, and in informal trade. One report stated that more than 25,000 children between the ages of 6 and 14 were working in the informal economy.

e. Acceptable Conditions of Work.—The law defines the overall framework for acceptable conditions of work but leaves specific agreements on wages, hours, and conditions of employment to the discretion of employers in consultation with employees. The monthly minimum wage was insufficient to provide a decent standard of living for a worker and family. The minimum wage was approximately 8000 dinars ($105) per month. Ministry of Labor inspectors were responsible for ensuring compliance with the minimum wage regulation; however, enforcement was inconsistent.

The standard workweek was 37.5 hours. Employees who worked beyond the standard workweek received premium pay on a sliding scale from "time-and-a-half" to "double time," depending on whether the overtime was worked on a normal work day, a weekend, or a holiday.

There were well-developed occupation and health regulations codified in the law, but government inspectors did not enforce these regulations effectively. There were no reports of workers being dismissed for removing themselves from hazardous working conditions. Because employment generally was based on very detailed contracts, workers rarely were subjected to conditions in the workplace about which they were not previously informed. If workers were subjected to such conditions, they first could attempt to renegotiate the employment contract and, that failing, resort to the courts; however, the high demand for employment in the country gave the advantage to employers seeking to exploit employees.

BAHRAIN

Bahrain is a monarchy, which in 2002 adopted a constitution that reinstated a legislative body with one elected chamber. The Al Khalifa extended family has ruled the country since the late 18th century and continues to dominate all facets of society and government. The King, Sheikh Hamad Bin Isa Al Khalifa, governs the country with the assistance of his uncle, the Prime Minister Sheikh Khalifa Al-Khalifa; his son, the Crown Prince Salman bin Hamad; and an appointed cabinet of ministers. Members of the Al Khalifa family hold 8 out of 23 cabinet positions, including all strategic ministries. The 2002 Constitution provides that the King is head of the executive, legislative, and judicial branches of the Government. The King also chairs the Higher Judicial Council, which appoints members of the Constitutional Court. The bicameral National Assembly consists of the elected Council of Representatives and the appointed Shura (Consultative) Council. The Constitution gives the Council of Representatives a role in considering legislation, but most legislative authority still resides with the King, and he appoints members of the Shura Council. The Constitution provides for a nominally independent judiciary; however, the judiciary was not independent because courts were subject to government pressure regarding verdicts, sentencing, and appeals.

The Ministry of Interior is responsible for public security. It controls the Public Security Force (police) and the extensive security service, which are responsible for

maintaining internal order. The Bahrain Defense Force (BDF) is responsible for defending against external threats. It also monitors internal security. The Government maintained effective control of the security forces. The security forces did not commit any serious human rights abuses during the year. Impunity remained a problem, and there were no known instances of security forces personnel being punished for abuses of authority committed during the year or in the past.

The country had a population of approximately 710,000, an estimated one third of whom were noncitizens, primarily from Asia. It had a mixed economy, was a regional financial services center, derived income from exports of petroleum and petroleum products, and depended on tourism from Saudi Arabia. The Government estimated Gross Domestic Product (GDP) growth rate at 6.8 percent. Higher average oil prices and increased construction activity fueled by deficit government spending contributed to higher GDP growth during the year. Real wages have been falling for more than 10 years.

Problems remained in the Government's respect for human rights. Citizens did not have the right to change their government. The Government prohibits political parties, and none exist. Impunity of government officials remained a problem, as did the lack of independence of the judiciary and discrimination against the Shi'a population, women, and foreign nationals. The press reported that some judges were corrupt. The Parliament investigated an instance of government corruption involving the government pension funds. The Government continued to infringe to some extent on citizens' privacy rights, and it restricted the freedoms of speech, the press, assembly, and association. Journalists routinely practiced self censorship. The Government also imposed some limits on freedom of religion and freedom of movement. Violence against women and discrimination based on sex, religion, and ethnicity remained a problem. There was reported discrimination in the job market. In May, the Council of Representatives rejected a law making discrimination a crime punishable under the country's 1976 Penal Code. Abuse of foreign workers occurred, including numerous instances of forced labor and some instances of trafficking.

The Government took initial steps to improve the judiciary process with the transparent recruitment of new judges, training of judges and prosecutors, establishment of an office of mediation, and steps to speed up the court process that automates case management. Five judges were dismissed for corruption. The Government also provided increased human rights training to law enforcement officers.

RESPECT FOR HUMAN RIGHTS

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

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

On April 27, the High Civil Court ordered the Ministry of Interior to pay BD 40,000 ($106,100) to the family of the 21-year old Bahraini man killed in a demonstration in April 2002.

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

c. Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and other cruel, inhuman, or degrading treatment or punishment. During protests on May 21, two civilians were injured by rubber bullets fired by the police. On October 28, rubber bullets or tear gas canisters fired by the police injured two protestors (*see* Section 2.b.). There were no known instances of officials being punished for human rights abuses committed either during the year or in any previous year.

Several cases of police abuse remain unresolved since 2002. In April 2002, police beat a human rights activist who came to the aid of another demonstrator. The investigation into this incident concluded that the police were not at fault. In May 2002, the Department of Military Intelligence (DMI) reportedly kidnapped a citizen and beat him in retaliation for his involvement in another demonstration. At year's end, there was no government investigation into this incident nor was any punishment exacted.

In September 2003, three ex-detainees filed a criminal complaint against an ex senior intelligence official and a retired security intelligence officer, Colonel Adil Jassim Flaifel, accusing them of torturing detainees from 1981 to 1996. Colonel Flaifel denied any wrongdoing, and the Public Prosecutor rejected the detainees' complaint. In 2002, lawyers for eight citizens made allegations against Colonel Flaifel for routinely engaging in torture and mistreatment of prisoners. According to Amnesty International (AI), the general prosecutor in the Legal Affairs Bureau did not acknowledge receipt of the complaint. He asserted that the general amnesty issued by the King in 2001 applied to government employees as well as citizens

Unlike last year, there were incidents of violent societal abuse by vigilantes. On March 12, following liquor vendors' refusal to suspend operations after their neighbors' demands, between 100 and 200 Shi'a protestors entered 4 houses and destroyed a large number of bottles of liquor. Police eventually defused the violence hours later. The Interior Minister issued a statement that citizens may not take the law into their own hands, and instead should address complaints to the ministry.

On March 17, as many as 150 Shi'a youths attacked a Manama restaurant located near a conservative Shi'a neighborhood. The restaurant was known to serve alcohol and was frequented by foreigners. The youths arrived with knives, rocks, and Molotov cocktails. They set fire to five vehicles and doused the back wall of the restaurant with gasoline. Police were slow to respond and stood outside the restaurant for 20 minutes before engaging the mob. Police arrested 12 teenagers and detained 4 more for questioning; however, the King pardoned all 16 teenagers at the request of their families.

In 2003, credible reports of prisoner beatings and mistreatment surfaced during three strikes at Jaw prison, in the southern part of the country. In August 2003, a prisoner was allegedly beaten in front of his family. News of the mistreatment reached 282 prisoners in Building 4, who proceeded to take over the building and stage a 14-day hunger strike. Press reports stated that the prisoners sought better living conditions, medical treatment, monitoring by human rights organizations, and a halt to beatings by prison guards. The Ministry of Interior negotiated the end of the strikes by promising to establish a joint parliamentary and Ministry of Interior commission to investigate claims. The commission began work in April 2003; however, findings of the commission's investigation have still not been made public. In February, the Ministry of Interior improved medical care, social services, and food at Jaw prison.

In December, several dozen prisoners at Jaw Prison started a hunger strike and called for an end to delays in the justice system. The press reported that some inmates were held for up to 9 months while waiting for the courts to hear their cases. The prisoners claimed that once they started the strike, they were denied hot water, phone calls, and outdoor exercise.

Other prisons in the country generally met international standards.

Women prisoners were housed separately from and in better conditions than men, and juveniles were housed separately from adults until the age of 15 in a section of the women's prison. On April 13, the Labor Ministry announced plans to open a separate center for the care of juvenile delinquents, but it has not yet opened. In August, the International Committee of the Red Cross (ICRC) met with government officials and NGOs. The ICRC did not monitor prisons.

Political and "security" prisoners are not held in special prisons or in special sections of regular prisons. Pretrial detainees are housed separately from convicted prisoners.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. At year's end, there were no reports of government investigations into claims that the Directorate of Military Intelligence (DMI) officers detained and beat a citizen in 2002.

There continued to be no known instances of police officers being punished for human rights abuses committed either during the year or in any previous year. The King ordered an investigation into police conduct at a demonstration in May in which two civilians were injured by rubber bullets (*see* Section 2.b.).

According to the Interior Ministry, its Disciplinary Court convicted three police officers during the year for criminal activities of property theft and disobedience.

From April 17 to 21, 40 ranking law enforcement officers from the Interior Ministry, National Guard, Bahrain Defense Force and the Public Prosecutor's office attended a 5-day U.N. Development Program seminar entitled "Training Course in the Human Rights Field for Law Enforcement in the Ministry of the Interior." This training, the first of its kind for the country's law enforcement officers from these organizations, focused on protecting the rights of suspects and inmates in accordance with international standards.

On March 30, police arrested the President of the National Committee for Martyrs and Victims of Torture days before his group planned to demonstrate against Law 56, the government decree that gives immunity to past and present government officials responsible for serious human rights abuses. Facing charges of un-Islamic behavior and indecency, he was denied legal representation for the 5 days he was detained in jail. This case was still pending at year's end. The Government also broke its own laws and released his name and the nature of the case to the local press. Releasing such information is illegal in alleged vice cases.

Police must inform suspects of the charges against them within 48 hours of the arrest. The law provides a detained person the right to a judicial determination on the legality of the detention within 45 days of the arrest.

Judges may grant bail to a suspect and do so regularly.

The Ministry of Justice is responsible for the assignment and management of public prosecutors, while the Ministry of Interior oversees security and all aspects of prison administration. Access to attorneys was often restricted; in the early stages of detention, attorneys must seek a court order to confer with clients. The state provides counsel if the defendant cannot afford to hire an attorney. After conviction, attorneys require the prison director's permission to visit a client in jail.

Prisoners may receive visits from family members, usually once a month.

Since the 2001 abolition of the State Security Act, courts have refused police requests to detain suspects longer than 48 hours without referring the case to the Public Prosecutor, and police have complied with court orders to release suspects. Prisoners must see a judge within 3 days of arrest. In December, inmates in Jaw Prison went on a hunger strike to protest delays in the judicial system. Some claimed they were spending up to 9 months in cells waiting for the courts to hear their cases (*see* Section 1.c.).

e. Denial of Fair Public Trial.—The Constitution provides for a nominally independent judiciary; however, the judiciary was not independent, and courts were subject to government pressure regarding verdicts, sentencing, and appeals. In the past, the King, the Prime Minister, and other senior government officials lost civil cases brought against them by private citizens; however, the court ordered judgments were not always implemented expeditiously. Members of the ruling Al Khalifa family were well represented in the judiciary and generally did not recuse themselves from cases involving the interests of the Government. The King chairs the Higher Judicial Council, which appoints members of the Constitutional Court.

The country's legal system is based on a mix of British Common Law, Shari'a (Islamic law), tribal law, and other civil codes, regulations, and traditions. The judiciary is organized into two separate branches: the civil law courts; and the Shari'a law courts.

The civil law courts adjudicate all civil and commercial, cases, and all personal status cases involving non-Muslims. The Courts of Minor Causes (the Lower Courts and the Court of Execution) have one judge with jurisdiction over minor civil and commercial disputes. The High Civil Court has three judges with jurisdiction over larger civil and commercial disputes and personal status cases involving non-Muslims. Appeals are made at the Civil High Court of Appeal, which is presided over by three judges. The criminal law courts adjudicate criminal cases. The Lower Criminal Court has one judge and rules on misdemeanor crimes. The High Criminal Court has three judges and rules on felonies. Appeals are made at the Criminal High Court of Appeal, which also has three judges. Both the civil and criminal court systems have a Supreme Court of Appeal (Court of Cassation), the final appellate court.

In September 2003, the High Civil Court considered a lawsuit brought against the Government by the family of a citizen, who died in 2002 during a violent demonstration in front of a foreign embassy. On April 27, 2004, the Court ordered the Ministry of the Interior to compensate the family (*see* Section 1.a.).

The Shari'a Law Courts have jurisdiction over personal status cases involving citizen and non-citizen Muslims. There are two levels: the Senior Shari'a Court; and the High Shari'a Court of Appeal. At each level is a Sunni Shari'a Court with jurisdiction over all personal status cases brought by Sunni Muslims, and a Jaafari Shari'a Court with jurisdiction over cases brought by Shi'a Muslims. The High Shari'a Court of Appeal must be composed of a minimum of two judges. In the event of a disagreement, the Ministry of Justice provides a third judge and the decision will be based on a majority vote.

Finally, the 2002 Constitution established the Constitutional Court to rule on the constitutionality of laws and statutes. The Court's membership consists of a president and six members, all appointed by the King's royal decree. These seven judges serve 9 year terms and cannot be removed before their terms expire. The King may present draft laws to the Court to determine the extent of their agreement with the Constitution. The Court's determination is final and "binding on all state authorities and on everyone," according to the Constitution.

The Constitution provides that the King appoints all judges by royal decree. The King also serves as chairman of the Supreme Judicial Council, the body responsible for supervising the work of the courts and the Public Prosecution Office. The Constitution does not provide a legislative branch confirmation process for judicial appointees nor does it establish an impeachment process.

In March, the Justice Minister dismissed five Shari'a court judges and suspended a sixth for corruption and disreputable behavior.

In February 2003, a citizen lost custody of her two children in a Shari'a court. Her appeal was denied by the original judge on February 21, 2003. On January 11, the Shari'a court overturned its 2003 decision and granted custody of the children to their mother.

In September 2003, a group of women's rights activists, attorneys, and journalists who were critical of various decisions of Shari'a judges published their views in the daily newspaper Akhbar Al-Khaleej. Eleven Shari'a court judges brought slander charges against this group, which was led by Anwar Abdulrahman, editor-in-chief of the newspaper. Abdulrahman challenged the constitutionality of laws for the press, judicial authority, and criminal procedures. In December 2003, the High Shari'a Court of Appeal suspended his trial and passed the case to the Constitutional Court. On July 13, seven of the Shari'a court judges dropped the criminal case against Abdulrahman. The Ministry of Justice dismissed the other four judges on charges of corruption. On October 10, the High Criminal Court rejected the judges' case. A newspaper called the result a "triumph for the press and social reformers" in the country (*see* Section 2.a.).

The Women's Petition Committee is a group of women who were negatively affected by Shari'a court decisions. Since 2003, they have called for the issuance of a long-promised personal status law. In a petition to the King, they requested that the Supreme Judicial Council intervene in matters of inspection, supervision, and reform of the religious judiciary. There was no response from the Supreme Judicial Council by the year's end; however, the King spoke of the necessity of a personal status law during his address at the opening of Parliament on October 9.

Civil and criminal trial procedures provided for an open trial, the right to counsel (with legal aid available when necessary), and the right to appeal. Juries are not a part of the judicial system.

Defendants may choose their own attorneys. If they are unable to afford a private attorney, defendants may ask the Justice Ministry to appoint an attorney to represent them in court. In the past, some attorneys and family members involved in politically sensitive criminal cases claimed that the Government interfered with court proceedings to influence the outcome or to prevent judgments from being carried out; however, there were no such reports during the year. There were allegations of corruption in the judicial system.

Court procedures do not meet internationally accepted standards for fair trials.

The BDF maintains a separate court system for military personnel accused of offenses under the Military Code of Justice. The Ministry of Interior has a similar system for trying police officials. Neither court reviewed cases involving civilian, criminal, or security offenses.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution provides for freedom from arbitrary interference with privacy, home, and correspondence except under the provisions of law and under judicial supervision; however, the Government continued to infringe on citizens' right to privacy. The Government continued to carry out some illegal searches. Telephone calls and personal correspondence remained subject to monitoring. A government controlled proxy prohibited user access to Internet sites considered to be antigovernment or anti Islamic, but these restrictions were often circumvented (*see* Section 2.a.). Police informer networks were extensive and sophisticated.

According to press reports on August 15, the BDF denied one of its high-ranking officers permission to marry a woman from a different sect.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for the freedom of speech and of the press, but the Government limited these rights in practice, especially in the media.

Local press coverage and commentary on international issues was open, and discussion of local economic and commercial issues also was relatively unrestricted. However, representatives from the Information Ministry actively monitored and blocked local stories on sensitive matters, especially those related to sectarianism, national security, or criticism of the royal family, the Saudi ruling family, and judges. In April, the country's third independent daily newspaper, Al-Meethaq, issued its first edition and soon discussed the issue of homosexuality, creating a controversial debate throughout the country. The Government did not participate in this debate. In October 2003, the Bahrain Journalists Association (BJA) became a full member of the International Federation of Journalists (IFJ).

In 2002, a press law was issued by royal decree. The Government began implementing the law but "froze" it due to a public outcry. Although suspended, the law continued to be enforced at the Government's discretion. The suspended press law provides for freedom of press and speech; however, it also contains restrictions on these "rights." The law provides for prison sentences in three general categories of offenses: criticizing the State's official religion; criticizing the King; and inciting actions that undermine state security. In addition, the law allows fines up to BD 2,000 ($5,300) for 14 other offenses, including publicizing statements issued by a foreign state or organization before obtaining the consent of the Minister of Information; publishing any news reports which may adversely affect the value of the national currency; reporting any offense against the head of a state which maintains diplomatic relations with the country; or publishing offensive remarks towards an accredited representative of a foreign country because of acts connected with his post.

In March, Sunni religious leaders and several Sunni parliamentarians compelled the Dubai-based Middle East Broadcasting Channel 2 (MBC 2) to halt its production of the reality television show "Big Brother" in the country, despite general public support for the program. The show was to be based on the original Dutch version but with some changes due to Islamic sensitivities. Whereas, in the original, 12 female and male contestants were filmed 24 hours per day as they lived together and periodically took votes to dismiss each other, the local version separated the males from the females so that they interacted only in communal areas. The Information Minister accepted the program in this format, provoking attacks from conservative parliamentarians who demanded his removal from office. Outside parliament, conservative religious leaders denounced the immoral nature of the program. Sunni conservatives organized a public protest that attracted more than 1,000 demonstrators. On March 3, MBC 2 announced that it was halting production. It made no reference to government pressure in its public statement.

In March, the Council of Representatives' Legal and Legislative Affairs Committee approved amendments to the Penal Code that provide for the imprisonment or fine of any person who publicly humiliates members of the National Assembly or who publishes the content of closed sessions.

In May, the Ministry of Information confiscated the May 9–15 issues of Al-Mushahid Al-Siyasi magazine that contained articles on the recent petition for constitutional change (*see* Section 2.b). Al-Mushahid Al-Siyasi is a well-known Arabic magazine, published in London by the BBC, and has a local circulation of 500 in Bahrain. Many issues of the magazine have been confiscated in the past, particularly ones containing articles critical of the country.

On July 27, the Al-Jazeera Theater staged a political comedy "Mr. MP" under the patronage of Parliament Chairman Khalifa Al-Dhahrani. The play addressed the Parliament's performance over the last 2 years, making fun of individual parliamentarians and their proposals. There were no reports of censorship.

Individuals openly expressed critical opinions regarding some domestic political and social issues in private settings, internet chat rooms, occasionally on State run television call in shows, and increasingly in organized public forums. Some citizens criticized leading government officials and one, Abd al-Hadi al-Khawaja, was jailed. On September 25, police arrested al-Khawaja, former Director of the Bahrain Center for Human Rights Executive, for criticizing the Prime Minister, Sheikh Khalifa al-Khalifa (the King's uncle) during his presentation on poverty at the Al-Aruba Club. Al-Khawaja accused the Prime Minister of squandering public money and blocking key economic and social reforms.

Shortly thereafter, the Government temporarily closed Al-Aruba Club and dissolved the Bahrain Centre for Human Rights. On November 21, al-Khawaja was sentenced to 1 year in prison for violating Article 165 (public incitement against the regime) and Article 168 (spreading rumors that could disrupt national security) of the Penal Code. Several hours after the court case concluded, the King suspended al-Khawaja's sentence and ordered authorities to release him. The Bahrain Center for Human Rights challenged its closure. Court proceedings on that case were set to begin in January 2005 (*see* Section 2.b.).

On October 10, criminal charges of slander were dropped against the editor of Akhbar Al-Khaleej (*see* Section 1.e.). The other two court cases brought by the Government against the country's newspapers in 2003 under the "frozen law" were ongoing at year's end.

In June 2003, Mansour al-Jamry, editor in chief of the independent newspaper Al Wasat, was interrogated, sentenced, and fined for allegedly publishing sensitive information on an ongoing investigation of a locally based terrorist cell. Al-Jamry has appealed his case to the Constitutional Court, citing discrepancies in the procedural enactment of laws 42, 46, and 47 which deal with judicial authority, criminal

procedure, and the press. In May, a Higher Criminal Court judge referred Al-Jamry's appeal to the Constitutional Court. At year's end, this case was ongoing.

In September 2003, Radhi Mouhsin al-Mousawi, editor in chief of The Democrat, a newsletter published by the National Democratic Action Society, appeared before the High Criminal Court on charges of impropriety, breach of trust, fraud, and forgery of a written document after writing an article about corruption in the tourism sector and making allegations against an unnamed tourism inspector. Al-Mousawi also presented his case to the Constitutional Court, claiming that discrepancies in the procedural enactment of the press, judicial authority, and criminal procedures laws renders them unconstitutional. The Constitutional Court rejected Al-Mousawi's case. The High Criminal Court resumed the tourist inspector's defamation case against Al-Mousawi in September.

Public demonstrations increased over foreign policy, unemployment, family status law, housing shortages, and human rights abuses. These were covered in the print media but not always on government owned television.

The Ministry of Information banned the publication of any news or information regarding six local men detained in July on suspicion of planning terrorist attacks. The Minister of Information issued a written decree, explaining that the measure was intended to protect the suspects' legal rights. The Minister cited articles 19, 21, and 70D of the 2004 Press and Publications law that had not been approved by Parliament. Parliamentarians and commentators asserted that such a ban must be passed through the legislative branch, not the executive branch.

In February 2003, under the 2002 Publication Laws, the Ministry of Information seized copies of "Mohammed's Character," a book considered blasphemous for insulting the character of the Prophet Mohammed. The Ministry also confiscated books and international magazines that featured articles criticizing the 2002 Constitution and articles discussing the naturalization of foreigners, which is called "political naturalization" within the country.

The 2002 Election Law regulated candidates' political activities, prohibiting speeches at most public locations and limiting the areas where campaign materials could be placed. However, these regulations were only sporadically enforced.

The Information Ministry controlled local broadcast media and exercised considerable control over privately owned local print media. The most independent of the country's newspapers, Al-Wasat, was subject to occasional Government harassment. The Government generally afforded foreign journalists access to the country and did not limit their contacts; however, the Government continued to ban correspondents from the Qatar based Al Jazeera satellite television channel, accusing the station of using sensationalized and one sided coverage to unfairly project a negative image of the Government.

The Government owned and operated all local radio and television stations. Radio and television broadcasts in Arabic and Farsi from neighboring and regional countries were received without interference. Al Jazeera was available in the country via satellite.

In October 2003, a foreign correspondent advised that the Ministry of Information threatened to expel him if he did not retract his draft article on political naturalization in the country. The correspondent reportedly withdrew the story. In December 2003, another foreign correspondent was threatened with expulsion if he did not reveal his source for his story on a December 17, 2003 illegal political demonstration that turned violent when demonstrators attacked police. When he reportedly refused, the Ministry of Interior gave him 24 hours notice to leave the country. The correspondent's regional bureau chief intervened with the Information Minister to keep the correspondent in the country.

The National Telephone Company (BATELCO) provided access to the Internet. E mail use was reportedly unimpeded, although it was subject to monitoring (*see* Section 1.f.). More than one third of the population used the Internet. There were 140,000 web-based e-mail accounts that the Government cannot monitor in the country. Many districts of Manama have cyber cafes, and there are 80 chat rooms visited by more than 1,000 persons daily. It was estimated that 22 percent of the population owned personal computers.

Although there were no formal regulations limiting academic freedom, in practice academics avoided contentious political issues, and the University of Bahrain did not have a political science program. University hiring and admissions policies favored Sunnis and others who were assumed to support the Government, rather than focusing on professional experience and academic qualifications. However, there continued to be some improvement in nondiscriminatory hiring of qualified individuals during the year. A few Shi'a professors, including women, were hired, and a Shi'a female professor was promoted to Dean of the College of Sciences at the University

of Bahrain. Larger numbers of Shi'a students were accepted into the national university, but this was still a smaller proportion than in the general population.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of free assembly; however, the Government requires organizers to notify the Ministry of Interior 72 hours before a public gathering or demonstration takes place. The law prohibits unauthorized public gatherings of more than five persons.

The Government periodically limited and controlled political gatherings. On February 14, Bahrain's four main political opposition societies launched a 2-day conference on constitutional reform entitled "Towards a Contractual Constitution for a Constitutional Monarchy." Participants examined changes to the 1973 Constitution. Just prior to the conference, the Government barred 15 international speakers and participants from entering Bahrain, including a prominent MP and former Parliamentary Chairman from Kuwait. The Government alleged that the conference organizers had not obtained permission to hold the event. However, the law requires only that societies notify the Government, which the four opposition societies had done. Publicly, the Minister of Information justified the participation restrictions by stating that it would not allow foreigners to interfere in internal affairs.

On February 21, Al-Ayam fired its foreign news editor and columnist allegedly because he participated in the Constitutional Conference. The columnist claimed that his employer was instructed by the Information Ministry to fire him.

Demonstrations occurred throughout the year, not all of which were approved by the Government. Unless violent, the Government generally did not intervene. During the year, there were four violent incidents of political unrest. Numerous peaceful demonstrations protesting government policies also occurred, many organized by Al-Wifaq National Islamic Society, the country's largest political society. While the Government does not permit political parties, it has permitted some political activity by several political "societies," including Al-Wifaq. Since 2001, gatherings at social and political clubs for political discussions have been held regularly and without any obvious obstruction by the Government.

Citizens peacefully demonstrated against the French law banning the hijab (head scarf) in public schools and government offices in France, the cancellation of the "Big Brother" television show, the frequency of electrical blackouts, the lack of housing, and high unemployment.

On April 6, the press reported that the Ministry of Labor and Social Affairs sent letters to the four main opposition political societies threatening legal action if they followed through on their plan to hold a popular petition on April 21 to call for rejection of the 2002 Constitution. The Labor Minister previously made public announcements that such an action by the societies violated Article 29 of the Law on Societies, which states that only duly constituted organizations and corporate bodies may address public authorities collectively. The four societies held the petition drive on April 30. During the event, police stormed the signature-collection stands and arrested 17 petitioners. Three detainees were released on bail on May 2 for lack of evidence; 14 remained in prison (*see* Section 3).

In early May, "Relatives of the Constitutional Petition Detainees" organized a series of demonstrations outside Parliament to protest the detention of the 14 petition gatherers. Approximately 150 relatives gathered on several occasions in May to protest silently. During the last protest, four demonstrators were arrested for defying police orders to disperse. Three were released immediately; the fourth was released on bail of BD 200 ($530) after being charged with calling for unauthorized gatherings and gathering without permission. The law requires persons to notify police in writing 72 hours prior to a gathering. On May 20, the King released the 14 detainees, stressing the importance of democracy in the country. He also announced the opening of a dialogue between the Government and the four political opposition societies aimed at resolving the dispute over the 2002 constitution.

The two violent demonstrations this year focused on international issues. On March 26, demonstrators marched from Al Suboor Mosque to a diplomatic mission after Friday prayers to hold a peaceful protest of the assassination of Hamas' founder and spiritual leader Ahmed Yassin. The crowd of demonstrators grew to 400, and a group of young rioters threw rocks at the police, who responded with tear gas. Rioters then burned refuse, tires, and trees. One demonstrator was injured, and a house reportedly caught fire after tear gas shells exploded inside. Police arrested eight protesters.

On May 21, approximately 5,000 protesters expressed anger at U.S. military operations in Najaf and Karbala as well as U.S. support for Israel. Halfway through the rally, organized by the Islamic Enlightenment Society and the Al-Wifaq National Islamic Society, riot police attempted to redirect the protestors by setting up a roadblock. When the crowd refused to turn back, police fired tear gas and rubber bullets.

Protesters responded by throwing stones at the police and burning a police jeep. There were 13 persons injured, including 5 policemen. Shortly after the demonstration, King Hamad appointed a new Interior Minister and ordered an investigation of police conduct at the event. At the same time, he confirmed the people's right to protest (*see* Section 1.c.).

In August, demonstrators protested against U.S. military operations in Najaf and demanded protection for the Imam Ali shrine. On August 13, a group of 8,000 demonstrators peacefully gathered around 2 main public squares in Manama. Parliament also condemned the attacks in Najaf, and Members of Parliament took part in the protest.

On October 28, more than 1,000 persons demonstrated against the arrest of human rights activist Abd Al-Hadi Al-Khawaja. The protestors formed a "car parade" that disrupted traffic in the capital for hours. The press reported that police blocked the protesters and fired tear gas and rubber bullets to disperse the restless crowd. Two protestors were injured by rubber bullets or tear gas canisters. Twenty-five persons were arrested. All but 13 were released in the following weeks. The King ordered the other 13 released with Al-Khawaja on November 21 (*see* Section 2.a.).

The Political Rights Law promulgated in July 2002 had a negative effect on the freedoms of speech and association (*see* Section 2.a.). The law, which the King told political societies to ignore, is intended to regulate election campaigns and prohibits "election meetings" at worship centers, universities, schools, government buildings, and public institutions. After this law's promulgation, the occurrence of public meetings declined precipitously and they received little coverage in the local press. One leader of a popular public forum reported that he had been told by a high level government official to reduce the attendance at meetings and make them "less political."

The Constitution provides for the right of free association; however, the Government limited this right by preventing the formation of political parties, although the Government has authorized political societies to run candidates and support them financially, and it has permitted several NGOs, including human rights organizations, to conduct political activities.

The 1989 Societies Law prohibits any activity by an unlicensed society and any political activity by a licensed society. The Ministry of Labor and Social Affairs has the right to reject the registration of any society whose services it deems unnecessary to society, are already being provided by another society, are contrary to state security, or are aimed at reviving a previously dissolved society.

In May, the Ministry of Labor and Social Affairs warned the Bahrain Center for Human Rights (BCHR) for the second time since October 2003 that it would revoke the Center's license if the center continued to conduct activities of a political nature (*see* Section 4). On September 27, the Labor Minister dissolved the Center after holding a seminar on poverty at which a BCHR member criticized the Prime Minister (*see* Section 2.a.).

c. Freedom of Religion.—The Constitution provides for freedom of religion; however, in practice the Government placed some limitations on this right. The Constitution declares Islam as the official religion, and all other religious groups must obtain a permit from the Ministry of Justice and Islamic affairs in order to operate and hold religious meetings. Depending on circumstances, a religious group may also need approvals from the Ministry of Labor and Social Affairs, the Ministry of Information, and/or the Ministry of Education to manage a school. There were four Sikh temples, a synagogue, and several official and unofficial Hindu temples, located in Manama and its suburbs.

The Government funds, monitors, and subjects all official religious institutions to some controls. These include Shi'a and Sunni mosques, Shi'a ma'tams (religious community centers), Shi'a and Sunni waqfs (charitable foundations), and the religious courts, which represent both the Ja'afari (Shi'a) and Maliki (one of the four Sunni) schools of Islamic jurisprudence. Although the region of Rifaa constitutes approximately 40 percent of the country's landmass, the Royal Court, in a letter dated April 27, denied an application for a Shi'a mosque citing that land in Rifaa cannot be allocated for commercial enterprises.

Thirteen Christian congregations that were registered with the Ministry of Labor and Social Affairs operated freely and allowed other Christian congregations to use their facilities. In May, Ministry of Islamic Affairs officials participated in the Conference for Religious Freedom in Qatar. The 3-day seminar focused on Islamic-Christian dialogue. Since 1950, the Mar Thoma Syrian Church of Malabar has sought land from the Ministry of Islamic Affairs to build a church and to hold religious services. Though Mar Thoma is registered with the Government, the Ministry

has still not responded to the church's formal applications. The National Evangelical Church allows Mar Thoma's congregation to use its facilities for early morning services; however, the facility can only accommodate half of Mar Thoma's congregation at any time.

The Government discourages proselytizing by non Muslims and prohibits anti Islamic writings; however, Bibles and other Christian publications were displayed and sold openly in local bookstores. Religious tracts of all branches of Islam, cassettes of sermons delivered by sheikhs from other countries, and publications of other religions were readily available. However, on April 2, the Ministry of Information banned the film "The Passion of the Christ" because it depicts the prophet Isa (Jesus).

The Ministry of Islamic Affairs has repeatedly denied a Baha'i congregation a license to operate. The Ministry views Baha'ism as an inauthentic offshoot of Islam, and it therefore refuses to recognize the congregation. The Baha'i congregation continued to practice its faith without government interference.

The Government rarely interferes with what it considers legitimate religious observations. Public religious events, most notably the large annual 2-day national Shi'a holiday of Ashura, were permitted but monitored closely by police. The King ordered the Ministry of Information to provide full media coverage of Ashura events. There were no restrictions on the number of citizens permitted to make pilgrimages to Shi'a shrines and holy sites in Iran, Iraq, and Syria. The Government monitored travel to Iran and scrutinized carefully those who chose to pursue religious study there.

The Political Rights Law promulgated in July 2002 forbids election speeches in worship centers, but political sermons continued (*see* Sections 2.a. and 2.b.). There were no reported closures of ma'tams or mosques during the year. The Government also may appropriate or withhold funding in order to reward or punish particular individuals or places of worship.

In April 2003, the Ministry of Interior lifted its ban on policewomen wearing veils, or headscarves. In July 2003, the King granted veiled women the right to drive, ending a decade-long ban. In July 2004, the Ministry of Defense lifted its ban on growing beards, a practice common among many Muslims. All military personnel who had been terminated for growing beards were reinstated. In August, the Cabinet reviewed a proposal to permit men to grow beards and women to wear veils while working for government departments.

Discrimination against the Shi'a population remained a problem. Sunnis received preference for employment in sensitive government positions and in the managerial ranks of the civil service. The royal family is Sunni, and the defense and internal security forces were predominantly Sunni. Shi'a citizens were allowed to hold posts in these forces, though not in positions of significance. In September, the Interior Ministry established a community police program to train 500 Shi'a men and women to patrol Shi'a neighborhoods. In the private sector, Shi'a citizens tended to be employed in lower paid, less skilled jobs. In private conversations, Shi'a consistently complained of discrimination, especially in public sector jobs and positions at the university. While Shi'a acknowledged that the situation was improving slowly, they still compose a disproportionately high percentage of the country's unemployed. Educational, social, and municipal services in most Shi'a neighborhoods, particularly in villages, were inferior to those found in Sunni urban communities.

There were no acts of physical violence or harassment of Jewish persons or acts of violence against or vandalism of Jewish community institutions, such as schools, synagogues, or cemeteries. The Government has not enacted any laws protecting the right of Jews to religious freedom; however, it has not interfered with their religious freedom. The Government makes no effort to specifically promote anti-bias and tolerance education. Some anti-Semitic political commentary and editorial cartoons appeared, usually linked to the Israeli-Palestinian conflict.

On April 30, unknown assailants vandalized the Zainab mosque. The mosque restrooms were rendered inoperable. The assailants destroyed all water faucets, fans, electrical switches, lamps, microphones, clocks, and audiotapes. The Director of the government agency responsible for managing government-held Shi'a properties sought police assistance to investigate the crime. At year's end, there were no results of the investigation.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution prohibits restrictions on freedom of movement, except as provided by law and judicial supervision. Banishment and prevention of return

are prohibited. The Government generally respected these rights. Citizens were free to move within the country and change their place of residence or work.

The 1963 Citizenship Law provides that the Government may reject applications to obtain or renew passports for reasonable cause, but the applicant has the right to appeal such decisions before the High Civil Court. A noncitizen resident may obtain a travel document, usually valid for 2 years and renewable at the country's embassies overseas. The holder of a travel document also required a visa to reenter the country.

The Constitution permits the Government to revoke citizenship only in the cases of treason and other such cases "according to the law." The Government has not revoked the citizenship of any person under the 2002 Constitution.

Opposition groups claimed that the naturalization process was politically driven to manipulate demographics for voting purposes and to avoid addressing the question of discrimination against Shi'a in sensitive government positions where employment is allegedly dominated by non indigenous groups. The Government complied with a 2003 parliamentary committee's request for official naturalization data with the understanding that the committee keep the data confidential. The Government occasionally granted citizenship to Sunni residents, most of whom are from Jordan, Syria, the Arabian Peninsula, and Egypt. The Government stated that Saudis who recently received citizenship are the grandchildren of citizens who had emigrated to Saudi Arabia. According to the country's Nationality Law, these persons have a legal right to citizenship.

The Constitution prohibits forced exile, and there were no reports of new cases of forced exile during the year. In May, the Royal Court granted 34 citizens living in exile the right to return to the country.

Although the law does not include provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, there were no reports of the forced return of persons to a country where they feared persecution.

The Government has not established a system for providing protection to refugees.

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

Citizens do not have the right to change their Government or their political system; however, the Constitution provides for a democratically elected Council of Representatives, the lower house of Parliament. The King appoints the Prime Minister, who then proposes Cabinet Ministers who are appointed by the King. Members of the ruling family held all security related Cabinet positions.

The bicameral National Assembly consists of the elected Council of Representatives and the appointed Shura (Consultative) Council. Either of these chamber may propose legislation, but the Cabinet's Office of Legal Affairs must draft the text of laws. The King may veto laws passed by the National Assembly, which in turn may override a veto by a two thirds majority vote. If the legislature overrides a veto, the King must promulgate the law within 1 month.

The King may dissolve the Representative Council at his discretion, and he retains the power to amend the Constitution and propose, ratify, and promulgate laws. Either council may question government ministers, and the Representative Council may pass a two thirds majority vote of no confidence that requires a minister's resignation. The Council of Representatives may also introduce a resolution indicating it cannot cooperate with the Prime Minister. The entire National Assembly would then have to pass the resolution by a two thirds majority that would require the King to either dismiss the Prime Minister or dissolve the Council of Representatives.

In 2002, the country held its first national elections in nearly 3 decades. Fifty-three percent of eligible voters elected 40 members to the Council, who shared legislative powers with the King and with the 40 members of the Shura Council appointed by the King. The country also elected municipal councils, whose role is still being defined.

There were no government candidates in the 2002 elections. Informed observers reported that the election campaigning and voting was generally free and fair; however, some candidates were not allowed to visually observe ballot counting, and there was incomplete reporting of election results. The Bahrain Transparency Society monitored the elections, in addition to a number of other local NGOs. Significantly, the Government drew the electoral districts in both the municipal council and the legislative elections to protect Sunni interests by creating several districts with small populations likely to elect a Sunni candidate. In contrast, districts where a Shi'a candidate was likely to win were drawn to include large numbers of voters, a formula that diluted the voting strength of the Shi'a community. International ob-

servers commented that this gerrymandering generally violated the one man, one vote principle common to most democracies.

Women accounted for 52 percent of voters in the 2002 municipal election. The Government did not publish the percentage of women voters in the legislative election. Although no women were elected in either election, two of the six women that that ran for the Council of Representatives forced their competitors into run offs in which each woman received more than 40 percent of the vote.

Political parties are prohibited, but a number of "societies" operate much like political parties, holding internal elections, campaigning for public support, and hosting political gatherings (*see* Section 2.b.). Al-Wifaq National Islamic Society, the country's largest political society, was joined by three other political societies in boycotting the elections, citing grievances over the constitutional provisions that equalize the powers of the elected Council of Representatives and the appointed Shura Council. On June 7, the Parliament defeated a political parties draft law. The Political Rights and Election Laws restrict the freedoms of speech and association (*see* Sections 2.a. and 2.b.).

On April 30, police arrested 14 opposition society youths for distributing pamphlets and collecting signatures for a petition calling for constitutional reform (*see* Section 2.b.). The youths were charged under Articles 160, 165, 166, and 169 of the 1976 Penal Code, all of which pertain to "crimes against the internal security of the state." Specifically, the Public Prosecutor accused them of not limiting signatures to society members and using coercive language in the pamphlets. One newspaper reported that many elderly and illiterate citizens were brought to centers to sign the petition despite not understanding its content. The Minister of the Royal Court also stated that collecting signatures on a petition is illegal because only the King and the National Assembly may call for constitutional change.

The parliamentary investigation into the alleged financial corruption involving management of government-controlled pension funds continued. The director general of the General Organization for Social Insurance first raised concerns about the funds in April 2003 when he announced that the organization would be bankrupt by 2023. According to the investigation's initial findings in January 2004, the Government lost BD 750 million ($ 1.9 billion) due to poor investments and administrative mismanagement. The Parliamentary Investigative Committee demanded that the Government repay the lost funds, implement oversight, and restructure fund boards. The Prime Minister publicly endorsed the Committee's recommendations. This investigation was marked by open discussion of this financial scandal. The Prime Minister personally appointed directors-general to each fund and restructured the pension fund board to consist of 15 members. The country's labor federation, the General Federation of Bahrain Trade Unions (GFBTU), criticized the Cabinet for changing the pension fund laws without its consultation, and segments of the public called for the dismissal of the ministers responsible for the mismanagement. The Parliament did not call for a vote of no confidence to remove the three ministers involved.

The King has appointed six women to the Shura Council. The Ministry of Cabinet Affairs reported that women held nine percent of senior civil service posts. Health Minister Dr. Nada Haffadh, appointed April 27, was the first female minister in the country. There were four female assistant secretaries and 52 female general directors in the Government. Four women were appointed as Bahrain's first female prosecutors, representing 15 percent of all public prosecutors.

The majority of women in Government worked in positions of lower significance; only a few attained senior positions within their respective ministries or agencies. In May, the Ministry of Defense promoted two women officers to the rank of colonel. They were the first women to hold this rank in the BDF.

The majority of citizens belong to the Shi'a and Sunni sects of Islam, with the Shi'a constituting approximately two thirds of the indigenous population. However, Sunnis predominate politically and economically. The ruling family is Sunni and is supported by the armed forces, the security services, and influential Sunni and Shi'a merchant families who benefit from a relatively open economy.

The King appointed a Christian and a Jewish member to the Shura Council. Twenty one Shura Council members were Shi'a Muslims and seventeen were Sunni. Approximately one third of the cabinet ministers were Shi'a.

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

Restrictions on freedom of association and expression sometimes hindered investigation or public criticism of the Government's human rights policies. There are 386 NGOs registered in the country. NGOs must report to the Ministry of Labor when their members participate in international NGO events.

In July, the Bahrain Human Rights Society (BHRS) released its second annual report in which it praised the Government's commitment to human rights and the democratic process; however, the report pointed out insufficient legislation in various sectors. The report noted for instance that the law does not adequately protect domestic servants against abuse. The report also criticized political societies for mixing politics with religion and using mosques and community centers to promote their agendas. The BHRS offered recommendations, which included amending legislation to bring it in line with the principles of the constitution and international resolutions, ratifying international resolutions, and implementing domestic law to protect the rights of expatriate workers.

On May 12, the Labor Ministry sent a letter to the BCHR stating that it would revoke the Center's license if it continued to conduct political activities, which are prohibited according to Article 18 of the Law on Societies. The letter did not specify the political activities in which BCHR had engaged. However, on April 30, the BCHR had organized a peaceful protest calling for the release of 25 persons detained for petitioning for constitutional change. On June 27, the Labor Ministry sent a letter instructing BCHR to stop working on establishing a victim assistance shelter, citing that this activity is not within the purview of its bylaws; however, with the endorsement of the Ministry of Foreign Affairs, BCHR raised more than BD30,000 ($75,000) to establish a shelter for abused runaway housemaids. On September 27, the Labor Ministry issued a press release to the local newspapers announcing the dissolution of BCHR prior to any notification to BCHR President or the board. The property was locked and bank accounts frozen. The BCHR challenged its closure, and the case remained in the courts at year's end (*see* Section 2.a.).

In recent years, the Government has allowed increased access between civil society and international human rights organizations. During the year, there were no reports of Government harassment of these groups or their members.

On March 15, the ICRC held its fourth annual Middle East and North Africa (MENA) conference in the country.

In March, an official from Human Rights Watch (HRW) participated in a BCHR fundraiser for a victim assistance shelter and spoke at a BCHR public forum on human rights.

In August, Amnesty International visited the country to gather information on violence against women.

There are no parliamentary human rights committees; however, the efforts of a Shura Council member led to the establishment of the Bahrain Human Rights Watch Society (BHRWS) on December 11. The Society planned to monitor and report on the human rights situation in the country.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equality, equal opportunity, and the right to medical care, welfare, education, property, capital, and work for all citizens; however, in practice these rights were protected unevenly, depending on the individual's social status, ethnicity, or sex.

Women.—Spousal abuse was widespread, particularly in poorer communities. In August, a prominent clinical psychologist, based on a study of 605 women of varying ages, social statuses, and educational backgrounds, concluded that 30 percent of the country's married women have been subjected more than once to verbal, physical, or psychological spousal violence. However, there were very few known instances of women seeking legal redress for violence, and there was little public attention to or discussion of the problem. Incidents usually were kept within the family.

No government policies or laws explicitly addressed violence against women. Rape is illegal; however, because marital relations are governed by Shari'a, spousal rape is not illegal.

It was not uncommon for foreign women working as domestic workers to be beaten or sexually abused by their employers and recruiting agents (*see* Sections 6.c. and 6.e.). Numerous cases were reported to local embassies, the press, and the police; however, most victims were too intimidated to sue their employers. Courts reportedly allowed victims who did appear to sue for damages, return home, or both.

Although prostitution is illegal, some foreign women, including some who worked as hotel and restaurant staff, engaged in prostitution (*see* Section 6.f.). In September 2003, the National Democratic Action Society (a political society that boycotted the 2002 elections) alleged that the Ministry of Tourism's Inspectorate Division was corrupt and had allowed a flourishing trade of trafficking in persons and prostitution. The Government refuted the charge, and the author of the article has been charged with defamation of character under the press law (*see* Section 2.a.).

In July, authorities rounded up hundreds of women from Uzbekistan, Ukraine, and Bulgaria who had entered the country on 2-week multiple entry visas. They were charged with overstaying their visas. Some runaway housemaids resorted to prostitution because they were unable to legally secure a new employer. On July 10, the Central Security Directorate raided an establishment that held four runaway housemaids engaged in prostitution.

Female genital mutilation (FGM) is not practiced in the country. There is no specific law that prohibits FGM.

Women's specific legal rights vary according to Shi'a or Sunni interpretations of Islamic law, as determined by the individual's faith, or by the court in which various contracts, including marriage, are made. Since 2002, women have filed complaints with the Ministries of Justice and Islamic Affairs against several Shari'a judges, arguing that women were often treated unfairly in these courts. In March, the Justice Minister dismissed five Shari'a court judges and suspended a sixth for corruption and disreputable behavior (*see* Section 1.e.).

Shi'a and Sunni women have the right to initiate a divorce; however, religious courts may refuse the request. Although local religious courts may grant a divorce to Shi'a women in routine cases, occasionally Shi'a women seeking divorce under unusual circumstances must travel abroad to seek a higher ranking opinion than that available in the country. Women of either sect may own and inherit property and may represent themselves in all public and legal matters. In the absence of a direct male heir, Shi'a women may inherit all property. In contrast, in the absence of a direct male heir, Sunni women inherit only a portion as governed by Shari'a; the balance is divided among the brothers or male relatives of the deceased. In practice, better educated families use wills and other legal maneuvers to ameliorate the negative effect of these rules.

In divorce cases, the courts routinely grant Shi'a and Sunni mothers custody of daughters under age 9 and sons under age 7, although custody usually reverts to the father once the children reach those ages. Regardless of custody decisions, the father retains the right to make certain legal decisions for his children—such as guardianship of any property belonging to the child—until the child reaches the legal age of 21. A noncitizen woman automatically loses custody of her children if she divorces their citizen father. A Muslim woman legally may marry a non Muslim man if the man converts to Islam. In such marriages, the children are automatically considered to be Muslim. Women may obtain passports and leave the country without the permission of the male head of the household.

In July, Parliament amended Article 13 of the 1975 Passports Law and granted a married woman the right to apply for a passport without her husband's consent. On August 7, the Government announced that children born to citizen mothers and foreign fathers would receive citizenship.

In February, the Public Works and Housing Minister issued an order granting widows, divorcees, and other women with child dependents the ability to apply for government housing and loans. The Government also granted divorcees the right to remain in their ex-husband's home while they raised their children. However, the new regulation applies only to homes granted by the Ministry or built with loans from the Ministry. In December 2003, more than 100 protesters, including many divorced women, staged a sit-in outside of the Ministry of Public Works and Housing, demanding the settlement of their housing and loan requests. The protesters claimed that the distribution of housing was discriminatory; thousands of persons had been on the waiting list for 15 to 20 years while some recent applicants received housing immediately. On October 4, in response to parliamentary demands, the Prime Minister announced plans to reduce the waiting period for families to receive housing, to make more land available for construction of new housing units, to devote more attention to the housing demands of low income families, and to ease the housing loan process. He said that the cost for these plans will be reflected in the 2005–06 national budget.

On September 19, the Government approved a plan to establish an alimony fund for divorced women with children whose ex-husbands did not pay required alimony. The fund had not been established at year's end.

According to the Ministry of Commerce, women constituted 16.6 percent of the total workforce. The Government has publicly encouraged women to work and was a leading employer of women, who constituted 40.4 percent of the government workforce and included university professors, public school teachers, and employees in the public health and social sectors. In August, the Traffic Directorate started training women to become traffic police. On September 6, the Ministry of Interior accepted applications for 100 women to serve on community police forces.

Labor laws do not discriminate against women; however, in practice there was discrimination in the workplace, including inequality of wages and denial of oppor-

tunity for advancement, and the influence of religious traditionalists sometimes has hampered women's constitutional rights despite their participation in the work force.

Laws do not recognize the concept of equal pay for equal work, and women frequently were paid less than men. In November, the Cabinet Affairs Ministry reported that women hold 9 percent of senior civil service posts, up from 7 percent in 2003. In December 2003, the BCHR released a report on employment discrimination. According to the report, Shi'a citizens, who account for 66 percent of the country's citizens, held 101 of 572 (18 percent) high-ranking posts.

Sexual harassment is prohibited; however, it was a widespread problem for women, especially foreigners working as domestics and other low level service jobs. In May, a Lower Criminal Court official dropped a case of sexual harassment against a Member of Parliament when the general prosecutor's office sent a letter to the court stating that the MP had immunity. The offenses allegedly took place in 2001 before he became a parliamentarian in 2002.

The number of women holding business licenses has increased 41.7 percent from 2001–03 and 7 percent from 2003–04. According to the Ministry of Commerce, commercial registrations for women accounted for 31 percent of all registrations.

The president of the University of Bahrain is a woman. Women compose 70 percent of the students at the country's universities, although some women complained that admissions policies at the University of Bahrain discriminated against qualified female applicants, especially Shi'a women. This year, 68 percent of new students accepted into the university were women.

Large numbers of women's organizations seek to improve the status of women under both civil and Islamic law. Some of the most active women's groups are the Bahrain Businesswomen Society (BBS), Bahrain Women's Society (BWS), and the Mustaqbal Society. The Supreme Council of Women was established by royal decree and is directed by the First Lady, Her Highness Shaikha Sabika bint Ebrahim Al-Khalifa.

Children.—The Government has often stated its commitment to the protection of children's rights and welfare within the social and religious framework of society. It generally honored this commitment through enforcement of civil and criminal laws and an extensive social welfare network.

Public education for citizen children below the age of 15 was free. While the Constitution provides for compulsory education at the primary levels (usually up to 12 or 13 years of age), the authorities did not enforce attendance. Starting in the 2004–05 academic year, "family education" will be taught to both boys and girls in the last year of primary school. Previously, only girls were instructed in this subject, which covers reproductive education and nutrition. According to the U.N. Children's Fund (UNICEF), 85 percent of school-aged children are enrolled. Most students finish secondary school.

Limited medical services for infants and preadolescents were provided free of charge. Non-citizen adults and children pay less than $3 per visit for care at health centers. Fees for operations vary according to the costs of the hospital.

Civil law based on tradition and religion shape the social status of children. Child abuse was rare, as was public discussion of it; the preference of the authorities was to leave such matters within the purview of the family or religious groups. In 2002, a 13-year old girl disappeared after reportedly being abused by members of her family. According to the local media, the case received attention at the highest levels of Government, but despite the Prime Minister's public charge to the police to find her, she remained missing.

The authorities actively enforced the laws against prostitution, including child prostitution, procuring, and pimping. Violators were dealt with harshly and may be imprisoned or, if a noncitizen, deported. There were no reports of child prostitution during the year.

Independent and quasi governmental organizations, such as the Bahraini Society for the Protection of Children and the Mother and Child Welfare Society, played an active part in protecting children by providing counseling, legal assistance, advice, and, in some cases, shelter and financial support to distressed children and families. The Child Care Home, funded from both the Government and private sources, provided shelter for children whose parents were unable to care for them. The Bahrain Women Society has established a "healing center" to offer counseling, workshops, and therapy to victims of child abuse. The Society implemented a 24-hour hotline for victims of sexual and physical abuse.

There were very few reports of arrests and detentions of juveniles during the year, and those who were arrested reportedly were released soon thereafter.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and there were reports that some foreign workers were recruited for employment on the basis of fraudulent contracts and then forced to work under conditions different from what was promised. Workers from Southeast Asia, South Asia, Ethiopia, and the former Soviet Union and Eastern Bloc reported being forced into conditions that amounted to trafficking. Some of these victims reported being sexually exploited or being forced to work as prostitutes; however, the most common forms of trafficking in persons involved unskilled construction laborers and domestic workers. Up to half of low and unskilled expatriate workers were subjected to contract substitution and this was often due to the duplicity of recruiting agents in the worker's home country. Victims of this form of trafficking experienced withholding of passports by employers, alteration of contracts without their consent, nonpayment of salaries, or extremely long working hours.

There were also allegations from runaway housemaids that recruitment agencies make it a practice to rape incoming housemaids.

Frequently, citizen traffickers within the country—including those within influential families—bribed new workers to pay a substantial fee (up to $1,200) to receive what turned out to be fraudulent visas for nonexistent jobs. The Government has taken measures to fight this illegal practice. In June, 10 companies faced court action for selling over 150 fraudulent visas. On August 3, the Ministry of Labor and Social Affairs (MOLSA) referred 43 business owners to the Public Prosecutor on allegations of selling fraudulent visas.

On July 17, MOLSA revoked the licenses of two manpower agencies for overcharging housemaids for processing work contracts. Two other agencies were under investigation for allegations of raping housemaids.

Although prostitution is illegal, some foreign women, including some who worked as hotel and restaurant staff, engaged voluntarily in prostitution. There were also reports that some women were forced into prostitution. When the Government discovered this kind of abuse, it generally responded by prosecuting the offender and often the victim's sponsor or employer. There were persistent reports that some women working in hotels and restaurants were locked in a communal house or apartment when not working and driven to work in a van (*see* Section 6.c.).

The Government has taken positive steps to combat trafficking; however, trafficking remains a problem. A "National Task Force" committee published pamphlets on expatriate workers' rights in several languages, provided manuals on these rights to local diplomatic missions, and installed a telephone hotline for victims. Victims of trafficking may seek assistance from their embassies, although the Government did not provide direct assistance to victims. On July 18, the Labor Ministry established a joint subcommittee with the Pakistani, Bangladeshi, Filipino, and Indian Ambassadors. The committee will meet semiannually to address labor issues affecting foreign workers.

In 2003, the Labor Ministry increased the number of inspectors from 9 to 40 and granted them the authority to inspect foreign labor camps. During the year, MOLSA trained an additional 30 inspectors. There were an additional 20 inspectors for entertainment outlets under the Information Ministry's Tourism Affairs Office.

In December 2003, the Parliament ratified the U.N. Convention against Transnational Organized Crime and two protocols to prevent, suppress and punish trafficking in persons, especially women and children and smuggling of migrants by land, sea, and air.

Persons With Disabilities.—The Labor Ministry estimated the number of persons with disabilities at 7,000 in 2002, but the International Labor Organization (ILO) estimated that persons with disabilities accounted for 4 percent of the population—approximately 24,000 persons.

There were no reports of discrimination against persons with disabilities in employment, education, or access to health care. The law protects the rights of persons with disabilities and a variety of governmental, quasi governmental, and religious institutions are mandated to support and protect persons with disabilities.

The Government's housing regulations require that access be provided to persons with disabilities, although enforcement is random. Greater emphasis has been given in recent years to public building design that incorporates access for persons with disabilities; however, the law does not mandate access to non-residential buildings for persons with disabilities.

Society tended to view persons with disabilities as special cases in need of protection rather than as fully functioning members of society. Nonetheless, the Government is required by law to provide vocational training for persons with disabilities who wish to work, and it maintains a list of certified, trained persons with disabilities. The Directorate of Social Welfare and Rehabilitation announced that 577 stu-

dents with disabilities will start vocational training at centers for persons with disabilities, an increase of 87 students from last year and 187 from 2 years ago.

The 1976 Labor Law requires that any employer of more than 100 persons must hire at least 2 percent of its employees from the Government's list of workers with disabilities; however, the Government does not monitor compliance. The Ministry of Labor and Social Affairs placed persons with disabilities in public sector jobs, such as public telephone exchanges.

A regional Center for the Treatment of the Blind was headquartered in the country, and a similar Center for the Education of Deaf Children was established in 1994.

National/Racial/Ethnic Minorities.—Article 3 of the 1963 Citizenship Law grants naturalized citizenship to Arab applicants residing in the country for 15 years and to non-Arab applicants residing in the country for 25 years.

In 2003, the Council of Representatives formed a committee to investigate the naturalization process and allegations that the Government illegally naturalized persons who did not reside in the country. On January 25, the Committee reported to the press that citizenship was granted to more than 300 persons who did not have permanent residence in the country. The committee's report pointed out that political naturalization has a negative impact on security and socio-economic conditions. It recommended amending the law and restructuring the Citizenship Directorate. On March 13, six political societies submitted detailed reports and photographic samples of naturalized passports to the Undersecretary of Immigration and Passports. To date, the Government has not responded.

Section 6. Worker Rights

a. The Right of Association.—In 2002, the King promulgated a new law on labor unions that, for the first time, granted workers the right to form and join unions. The law also grants noncitizens the right to join unions. There were 39 trade unions in the country. In June 2003, the King confirmed the right to form unions at government ministries. Since then, five public unions have been established. This law and the Labor Union Law also improved the legal status of foreign workers.

The Labor Union Law established a union federation, the General Federation of Bahraini Workers (GFBW) which provides that all unions be members of the GFBW. During the year, the GFBW board renamed the federation the General Federation of Bahrain Trade Unions. The law does not restrict who may be a union official other than to stipulate that a member of a company's management may not be a union member. The law also states that no more than one union per establishment may be created and prohibits unions from engaging in political activities. As of September, only one federation of trade unions existed in the country, despite criticism from the ILO, which called for multiple federations.

The law allows union membership for private sector, civil service, and maritime workers; however, soldiers (or members of the military) are prohibited from joining workers in unions of the civil service, and of maritime workers.

The law does not address anti-union discrimination, and no reports of such behavior were reported. Nothing in the law prohibits unions from access to the legal system. The law encourages unions to participate in international labor forums and events; however, none have yet joined an internationally affiliated trade union organization. No internationally affiliated trade unions exist in the country.

Women activists have been trying since 2001 to establish the Bahrain Women's Union and continued to face setbacks during the year. The Labor Ministry refused to issue the license because it insists that the group change their name to the Bahrain Women's Society. The women disagreed with the name change since the union would bring together 12 societies to advocate women's rights, press for legislative changes, and prepare women for political roles. One of the group's priorities is the creation of a personal law to protect the rights of families, women, and children. In September, the preparatory committee filed a civil suit against the Government. To date, this case has not been decided.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively. Unions can be formed at establishments of any size. Employers and the Government are required to treat unions as independent juristic entities.

The law states that "the right to strike is a legitimate means for workers to defend their rights and interests"; however, the law also places some restrictions on this right. The law requires arbitration before a vote to strike and that three quarters of a union's members approve the strike in a secret ballot. It is not yet clear whether the arbitration is binding.

Although government sources say the arbitration provision will not preempt the right to strike, the text of the law does not clearly specify that a union may proceed to a strike vote if it disagrees with the arbitrator's decision. Officials from the labor and business sectors and from the Government have examined this ambiguity but are not interested in changing it.

In March, Seef Properties fired 34 employees without notice or severance. The President of the workers' union negotiated the highest compensation package ever paid to a dismissed private sector employee, a 6-month severance package. Union negotiators hoped for re-employment.

There are no special laws or exemptions from regular labor laws in export processing zones.

c. Prohibition of Forced or Compulsory Labor.—Forced or bonded labor is prohibited by law; however, in practice, the labor laws applied for the most part only to citizens, and abuses occurred, particularly in the cases of domestic servants and those working illegally. The Government also prohibits forced or compulsory child labor, and there were no reports that such practices occurred.

Foreign workers, who make up approximately two thirds of the workforce, in many cases arrived in the country under the sponsorship of an employer and then switched jobs while continuing to pay a fee to their original sponsor. This practice made it difficult to monitor and control the employment conditions of domestic and other workers. The Government issued new regulations granting foreigners more freedom to change jobs, but the process is legally cumbersome and many foreign workers remain unaware of their rights and obligations under the law. After 1 year in a position, a foreign worker is allowed to break this contract and look for other work. Prospective employees must present the new employer with a "No Objection Certificate" (NOC) from the previous employer. After 2 years in a position, expatriate employees may change jobs locally without the approval of the original sponsor and within the duration of their contract period, provided the original employer was notified in writing months in advance. Many foreigners have been unable to obtain NOCs to get a new job.

Unskilled foreign workers can become indentured servants and often lacked the knowledge to exercise their legal right to change employment.

There were numerous credible reports that employers withheld salaries from their foreign workers for months and even for years, and refused to grant them the necessary permission to leave the country. The Government and the courts generally worked to rectify abuses if they were brought to their attention, but they otherwise focused little attention on the problem. The fear of deportation or employer retaliation prevented many foreign workers from making complaints to the authorities (*see* Section 6.e.).

Statistics provided by the Bahrain Center for Human Rights Migrant Workers Group indicated that 22 construction workers committed suicide in 2003. In the first 3 months of the year, 11 expatriate workers committed suicide. According to the report and related press articles, many of these workers were under financial strain, suffered exhaustion, and missed their families back in their home countries.

In May, 10 Filipino retail workers presented their case to the Justice Ministry charging their employer with contract substitution, unpaid overtime, and sexual harassment. The case was settled amicably. At the workers' request, the employer gave them their overdue salaries and paid for their plane tickets to the Philippines.

On July 5, BCHR negotiated a BD 15,000 ($40,000) settlement with employer Al Owainati Construction Company to pay 22 Indian runaway workers their overdue salaries, unpaid overtime, leave entitlement, and indemnity pay.

On July 5, the Cabinet approved legal action to establish a Control Bureau to resolve disputes between workers and employers through negotiations.

The Government worked to decrease instances of abuse by passing a law assessing a BD 500 to BD 1,000 ($1,300 to $2,650) fine for employers found guilty of forced labor. Claims of runaway workers in the country have dropped dramatically since May 2003. The new rules require sponsors to pay a BD 250 ($600) deposit per employee for each report of a runaway.

Labor laws do not apply to domestic servants. There were numerous credible reports that domestic servants, especially women, were forced to work 12 or 16 hour days, given little time off, malnourished, and subjected to verbal and physical abuse, including sexual molestation and rape. Between 30 to 40 percent of the attempted suicide cases handled by the Government's psychiatric hospitals were foreign maids (*see* Section 6.e.).

It was estimated that there were 50,000 foreign housemaids working in the country who are predominantly of Sri Lankan, Indonesian, Indian, and Filipino origins. During the year, there were 19 incidents of seriously abused housemaids reported

in the press and another 50 cases that have been reported directly to the Philippine Embassy. In 2003, the Philippine, Indian, and Bangladeshi embassies proposed a four point agenda to ensure the protection of housemaids. The agenda included creating a separate labor law for housemaids, formulating a standard contract guiding the hiring of housemaids, setting a standard minimum wage, and abolishing the practice of employers retaining the housemaids' passports. This agenda has not yet been introduced to the National Assembly.

Housemaids that have no embassy representation in the country (Indonesian and Sri Lankan) are often subject to the worst types of physical and sexual abuse. With no diplomatic mission to protect them and no established victim assistance shelter, runaway housemaids have often been returned by untrained police to abusing employers.

Since February 2003, the Philippine Embassy has requested that all Filipinos register with the embassy so it can track "undocumented" workers. Registration with the Philippine Embassy allows them certain benefits, including scholarships for vocational courses and medical insurance.

In August, the Indian Embassy held an open house to register all Indian workers in the country. The mission announced its disappointment with the low turnout.

As in 2003, there were numerous reports of employers and recruiting agents raping and beating housemaids. Some housemaids also suffered injuries escaping employers. On February 8, two Indian housemaids who were physically abused fled their employers. They lived on the street for two months before church staff found them and referred them to the Bahrain Center for Human Rights.

On March 6, a 13-year old Indonesian housemaid (whose passport indicated she was 24 years old) was found severely beaten and burned wandering downtown Manama. The same night a Sri Lankan housemaid was dropped off at a manpower agency after her employer tied her to a table and raped her repeatedly at knifepoint.

On March 14, an Indian housemaid committed suicide in her employer's home.

On July 4, a man visited a recruitment agency in search of work. There he saw an Indian housemaid who was beaten and locked in the back room. He reported it to BCHR and the police. Police visited the agency and received assurances from the agency owner that he would take the housemaid to the Indian embassy. Instead, he took her to the airport where she was arbitrarily deported. The BCHR filed a case with the Public Prosecutor. The case is pending.

On July 26, a Filipino housemaid fell four stories from the window of a manpower agency while attempting to escape after being locked for days in the agency offices. She suffered serious spinal and leg injuries.

On July 27, a Bangladeshi housemaid accused her employer of rape. The employer's brother-in-law turned him in to the police.

On August 9, police took a citizen owner of a manpower agency into custody after an Indonesian housemaid alleged he raped her.

On August 20, an Indian housemaid who was locked in her room for 3 months was freed by police after alerting them by screaming from her window.

On January 28, the Higher Civil Appellate Court commuted the sentence of the Ethiopian maid who killed her employer in 2003 from death to life in prison.

There were persistent reports that some foreign women working as hotel and restaurant staff were locked in a communal house or apartment when not working and driven to work in a van. Many reportedly traded sexual favors with hotel managers in exchange for time off from work (*see* Section 5, Trafficking). In September 2003, the press reported allegations of corrupt Ministry of Tourism inspectors. The inspectors' job ensures hotels' compliance with tourism and labor laws. To date, an investigation into the problem remained pending.

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum age for employment is 14 years of age. Juveniles between the ages of 14 and 16 may not be employed in hazardous conditions or at night, and may not work more than 6 hours per day or on a piecework basis. Child labor laws were enforced effectively by Ministry of Labor inspectors in the industrial sector; child labor outside that sector was monitored less effectively, but it was not believed to be significant outside family operated businesses, and even in such businesses, it was not widespread.

The law prohibits forced and compulsory child labor, and the Government enforced this prohibition effectively (*see* Section 6.c.).

e. Acceptable Conditions of Work.—The country does not have an official minimum wage; however, the Government issued guidelines in 2002 that the public and private sectors should pay workers no less than BD150 ($398) per month, and the Government observed this standard in paying its employees. Compliance with these guidelines was not actively monitored, and few unskilled foreign laborers earned as

much as the guidelines suggested. For foreign workers, employers considered benefits such as annual trips home, housing, and education bonuses as part of the salary. However, these guidelines did not provide a decent standard of living for a worker and family.

The Labor Law is enforced by the Ministry of Labor and Social Affairs and mandates acceptable conditions of work for all adult workers, including adequate standards regarding hours of work (a maximum of 48 hours per week) and occupational safety and health. Under the Labor Law, workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

In June 2003, the Ministry of Labor and Social Affairs established a hotline to take calls to respond to complaints about working conditions, delay in salary payments, and other related issues. A separate hotline was established to receive information about illegal workers. Due to limited training for staff, it was reported that sometimes calls went unanswered. In December, an international NGO trained the hotline staff.

The Ministry enforced the law with periodic inspections and routine fines for violators. In February 2003, the first group of 11 new labor inspectors graduated from training. In May 2003, the Ministry of Labor and Social Affairs increased the number of inspectors to 40. These trained inspectors will also visit labor barracks to ensure that workers' accommodations meet the necessary safety and hygiene standards. The inspectors are only authorized to inspect premises that have a commercial registration.

Most of the 50 Asian workers who filed complaints at the Ministry of Labor and Social Affairs after falling victim to fraud by a local company were repatriated.

The press often performed an ombudsman function on labor problems, reporting job disputes and the results of labor cases brought before the courts. The BCHR has also volunteered to assist the Ministry of Labor and Social Affairs with inspections and monitoring. Once a worker lodges a complaint, the Ministry of Labor and Social Affairs opens an investigation and often takes remedial action. The Fourth High Court consists of three labor courts and has jurisdiction over cases involving alleged violations of the Labor Law. Complaints brought before the Ministry of Labor and Social Affairs that cannot be settled through arbitration must be referred to the Court within 15 days. In practice, most employers preferred to settle such disputes through arbitration, particularly since the court and labor law generally are considered to favor the employee.

The Labor Law specifically favors citizens over foreign workers and Arab foreigners over other foreign workers in hiring and firing. Because employers included housing and other allowances in their salary scales, foreign workers legally may be paid lower regular wages than their citizen counterparts, although they sometimes received the same or a greater total compensation package because of home leave and holiday allowances. Some foreign workers and citizen workers were paid comparable wages, with total compensation packages often significantly greater for the former. Women in most jobs were entitled to 60 days of paid maternity leave and nursing periods during the day. However, women generally were paid less than men.

The law provides that fines and jail sentences would be imposed upon private sector employers who failed to pay wages required by law. This law applied equally to employers of citizens and foreign workers and was intended to reduce abuses against foreign workers, who at times were denied the required salaries (*see* Section 6.c.). The law provides equal protection to citizen and foreign workers; however, all foreign workers require sponsorship by citizens or locally based institutions and companies. According to representatives of several embassies with large numbers of workers in the country, the Government was generally responsive to embassy requests to investigate foreign worker complaints regarding unpaid wages and mistreatment. However, foreign workers, particularly those from developing countries, often were unwilling to report abuses for fear of losing residence rights and having to return to their countries of origin.

Legislation permits all workers except domestics to change jobs without obtaining a NOC from their employers. However, the process for utilizing these new rules was not well understood among expatriate workers. They were also often unwilling to challenge their employers for fear of being punished or deported. In addition, domestic workers were exempted from this legislation, and many of them remained in essence indentured workers, unable to change employment or leave the country without their sponsors' consent (*see* Section 6.c.).

Foreign women who worked as domestic workers often were beaten or sexually abused (*see* Section 5). In 2003, between 30 and 40 percent of attempted suicide cases handled by the Government's psychiatric hospitals were foreign maids (*see*

Section 6.c.). Unverified reports suggested that unskilled foreign laborers were also at risk of suicide.

The Government has set occupational health and safety standards and identified agencies responsible for enforcement. Under the Labor Law, workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment, but during the year there were no reports of workers attempting removal.

On April 10, a Bangladeshi construction worker died when he fell from a four-story building. On July 17, a housing camp for 60 construction workers collapsed. No one was injured in the collapse but the 60 workers had to find temporary shelter. On July 26, three construction workers suffered extreme exhaustion, collapsing from working in excessive heat.

The Government and NGOs held several occupational safety seminars throughout the year.

EGYPT

The Arab Republic of Egypt has been governed by the National Democratic Party (NDP) since the party's establishment in 1978. The NDP continues to dominate national politics and has maintained an overriding majority in the popularly elected People's Assembly and the partially elected Shura (Consultative) Council. Islam is the state religion. In 1999, President Hosni Mubarak was reelected unopposed to a fourth 6-year term in a national referendum. The President appoints the Cabinet and the country's 26 governors and may dismiss them at his discretion. The 1971 Constitution provides for an independent judiciary; however, it is subject to influence by the Executive, and application of the 1981 Emergency Law undermined its independence. The Government continued to use the Emergency Law to try non-security cases in the emergency and military courts. Corruption was a problem.

The Ministry of Interior controls the State Security Investigations Service (SSIS), which conducts investigations and interrogates detainees, and the Central Security Force (CSF), which enforces curfews and bans on public demonstrations. Security forces continued to arrest and detain suspected terrorists. The President is commander-in-chief of the military. The Government maintained effective control of the security forces, which committed numerous, serious human rights abuses.

The country is transforming from a government-controlled economy to a free market system; however, state-owned enterprises still dominated some key sectors of the economy. The country had a population of approximately 70.5 million. Approximately 30 percent of the population worked in the agriculture sector, which is almost entirely privately owned. An estimated 3 to 5 percent of the population were subsistence farmers. Income from tourism, remittances from approximately 2 million citizens working abroad, petroleum exports, and Suez Canal revenues were the other principal sources of foreign currency and were vulnerable to external shocks. Approximately 17 percent of the population live in poverty, but the poor performance of the economy over the past 4 years likely has increased that figure.

The Government respected human rights in some areas; however, its record was poor, and in many areas serious problems remained. Citizens did not have the meaningful ability to change their government. The use of military courts to try civilians and Emergency Courts to try political cases continued to infringe on a defendant's constitutional right to a fair trial before an independent judiciary. The 1981 Emergency Law, extended in February 2003 for an additional 3 years, continued to restrict many basic rights. The security forces continued to mistreat and torture prisoners, arbitrarily arrest and detain persons, hold detainees in prolonged pretrial detention, and occasionally engage in mass arrests. Local police killed, tortured, and otherwise abused both criminal suspects and other persons. Police continued to arrest and detain homosexuals. The Government partially restricted freedom of the press and significantly restricted freedom of assembly and association. The Government placed some restrictions on freedom of religion. Domestic violence against women remained a problem. Female genital mutilation (FGM) persisted, despite government and nongovernmental efforts to eradicate the practice. Tradition and some aspects of the law discriminated against women and religious minorities, including Christians and particularly Baha'is. The Government limited workers' rights. Child labor remained widespread, despite government efforts to eradicate it. Exposure of workers to hazardous working conditions and other employer abuses continued.

During the year, the Government convicted 14 police officers for abuse and torture of prisoners. The Government abolished State Security Courts in 2003 but continued

to use Emergency Courts. The Government established the National Council for Human Rights. The Government generally permitted human rights groups to operate without restrictions; although several groups encountered difficulty registering under the NGO law, they developed alternate means to conduct their work.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary and Unlawful Deprivation of Life.—There were no reports of political killings; however, during the year, human rights organizations and the press reported that at least 10 persons died in custody at police stations or prisons.

In June, the Egyptian Organization for Human Rights (EOHR) issued a report entitled "Torture: An Unchecked Phenomena," in which it documented 41 cases of torture in police stations resulting in 15 deaths in custody from April 2003 to April 2004. EOHR also asserted that from April 1993 to April 2004, it documented 412 cases of torture in police stations, including 120 cases where detainees died as a direct result of torture.

On February 25, police arrested Sayyed Mustafa for defaulting on a loan. They tortured him at Awseem police station in Giza Governorate. On March 20, police transferred him to Qasr El Eini hospital, which declined to admit him, apparently for fear that the hospital would be held liable for his condition. The police returned him to Awseem, where he died the same day. The Public Prosecutor ordered an investigation, the results of which remained unavailable at year's end.

Following the arrest of 52 Muslim Brotherhood (MB) members in May, one of the detainees, Akram Abdel Aziz El Zuhairy, died in custody. The MB leadership said that he died from torture. MB members of Parliament called for an immediate investigation, which led to the formation of a committee that visited Tora prison in June where the other 51 MB members were being held. The Ministry of Interior denied the torture allegations, and instead claimed that Zuhairy hit his head while being transported between detention and a meeting with prosecutors. On June 15, the Office of Forensic Medicine issued a report asserting that there were no signs of injury to Zuhairy's body.

On August 27, 2 detainees died and 18 others required hospitalization for asphyxiation/heat exhaustion after police transported them in poorly ventilated trucks to Cairo from Saloum, on the Libyan border. These dead and injured were part of a group of 80 young men who had illegally crossed the Libyan border for the eventual purpose of seeking work in Italy. Libyan authorities arrested the men and deported them in air-conditioned buses. Egyptian authorities, however, used two enclosed non-air-conditioned police trucks for the 12-hour trip to Cairo. Upon arrival at Khalifa Police Station, 2 detainees had died and 18 others needed hospitalization. A number of the detainees further said that police officers beat them during the trip after they pleaded for better ventilation. The Minister of Interior and the Office of the Public Prosecutor ordered immediate investigations, but at year's end had not publicized their findings.

The investigation into the deaths of five prisoners in 2002 at Ghurbaniyat Prison in Alexandria reportedly was completed, although the Government has declined to publicize its findings.

b. Disappearance.—Human rights monitors continued to call attention to unresolved cases of disappearance during the year. The February 2003 disappearance of Adel Mohammed Kamiha, a coffee shop owner who reportedly disappeared following his transfer from police custody to State Security in Alexandria, remained unsolved.

In August 2003, Reda Helal, a journalist, disappeared. The police initiated an investigation into his disappearance; however, Helal's whereabouts continued to be unknown at year's end. Despite continued speculation by human rights groups that the Government might be withholding information about his disappearance, there was no evidence to support this assertion.

On March 31, the Human Rights Association for the Assistance of Prisoners (HRAAP) filed suit against the Ministry of Interior and the Yemeni Embassy in Cairo to determine the whereabouts of Brigadier Ahmed Salem Ebeid, a Yemeni citizen and former Yemeni Deputy Minister of Defense and former Minister of Information. Ebeid, who had resided in Egypt since 1994, disappeared on February 18. HRAAP asserted that the Government exchanged Ebeid, alleged by Yemeni authorities to be an opposition member, for an Egyptian terror suspect in Yemeni custody. In a December 8 hearing, HRAAP lawyers showed that Ebeid was no longer in Egypt. The next hearing is scheduled for February 2005.

On April 18, HRAAP appealed to President Mubarak to investigate the disappearances of 29 individuals who had been arrested by State Security officers, dating

back to 1989. Most prominent among these cases is a former Libyan Deputy Foreign Minister who disappeared in 1992.

During the year, EOHR reported that it was following 59 cases of disappearance within the country since 1992. Domestic human rights organizations provided names to the U.N. Working Group on Enforced and Involuntary Disappearances; the Government reportedly has denied involvement in any of the cases.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits the infliction of "physical or moral harm" upon persons who have been arrested or detained; however, torture and abuse of detainees by police, security personnel, and prison guards remained common and persistent. According to the U.N. Committee Against Torture, a systematic pattern of torture by the security forces exists, and police torture resulted in deaths during the year (*see* Section 1.a.).

Under the Penal Code, torture or giving orders to torture are felonies punishable by 3 to 10 years imprisonment. For death resulting from torture, the crime is considered intentional murder punishable by a life sentence. Arrest without due cause, threatening death, or using physical torture are crimes punishable by imprisonment. Abuse of power to inflict cruelty against persons is a crime punishable by imprisonment and fines. In June 2003, the Government abolished hard labor as a punishment.

Victims may also bring a criminal or civil action for compensation against the responsible government agency. There is no statute of limitations in such cases.

Despite these legal safeguards, there were numerous, credible reports that security forces tortured and mistreated detainees. Human rights groups reported that the State Security Investigations Service (SSIS), police, and other government entities continued to employ torture to extract information, coerce opposition figures to cease their political activities, and to deter others from similar activities. Reports of torture and mistreatment at police stations remained frequent. In prominent cases, defendants alleged that police tortured them during questioning (*see* Sections 1.e. and 2.c.). Although the Government investigated torture complaints in some criminal cases and punished some offending officers, punishments generally have not conformed to the seriousness of the offense.

Principal methods of torture reportedly employed by the police and the SSIS included stripping and blindfolding victims; suspending victims from a ceiling or doorframe with feet just touching the floor; beating victims with fists, whips, metal rods, or other objects; using electrical shocks; and dousing victims with cold water. Victims frequently reported being subjected to threats and forced to sign blank papers for use against themselves or their families should they in the future complain about the torture. Some victims, including male and female detainees and children, reported sexual assaults or threats of rape against themselves or family members. While the law requires security authorities to keep written records of detentions, human rights groups reported that the lack of such records often effectively blocked investigation of complaints.

The Emergency Law authorizes incommunicado detention for prolonged periods. Detentions under this law frequently were accompanied by allegations of torture (*see* Section 1.d.).

In May, the Government's Central Audit Agency directed the Ministry of Interior (MOI) to require any security/police officers found to be responsible for torture to be financially liable for any judgments levied against the MOI. The Audit Agency noted during the prior year that punitive damages awarded by the courts to victims of torture amounted to approximately LE 2.8 million ($450,000) in the 8 governorates (of 26 in the country) where data was available.

In October 2003, according to media accounts and human rights monitors, police in Helwan stormed a house searching for two suspects in a homicide. Although the suspects were not present, police took into custody between 11 and 15 members of their family, including 4 women. The detained family members allege they were beaten, whipped, suspended, stripped, and molested as police attempted to extract information about the whereabouts of the two suspects. On October 24, a criminal court scheduled the next hearing on the case for February 2005.

The Government continued efforts during the year to hold security personnel accountable for torturing prisoners in their custody; however, the Government continued its practice of giving light sentences to security personnel convicted of serious abuses, including torture resulting in death. Human rights organizations and the press reported that 14 police officers in 5 separate cases, 2 of which involved deaths in custody, were held publicly accountable. Eight police officers in 1 case involving 1 death were acquitted; and 6 cases, including 2 that led to deaths in custody in-

volving charges against 15 police officers, remained before the courts at year's end. Some of the cases involved incidents that took place in previous years.

In a 2002 report "The Truth," HRAAP (previously HRCAP, the Human Rights Center for the Assistance of Prisoners), commended judicial efforts to prosecute security officers for torture, but it also outlined current obstacles, including a vague legal definition of torture and the inability of victims to sue perpetrators directly.

In May 2003, a court of appeal upheld the December 2002 conviction of police officer Arafa Hamza, who had been sentenced to 1 year in prison for the death from torture of 21-year-old student Ahmed Mahmoud.

There were no developments in the prosecution of Luxor Police Major Magdy Awad and an assistant for the May 2003 torture of Nagdy Mohamed Gad El Rub.

Numerous cases of torture were documented. For example, on October 11, the North Cairo Criminal Court sentenced policeman Ashraf El Ganzouri from the Azbakiya Police Station to 5 years in prison after he was convicted of illegally detaining and torturing to death Mohamed Hassan Abdallah in 2003. Ganzouri was charged with beating Abdallah during an identity card investigation. Abdallah resisted and Ganzouri's final attack resulted in Abdallah's death due to blunt trauma to the head.

On January 22, the Public Prosecutor indicted Major Yasser Ibrahim El Akkad, the head of the Criminal Investigations Department at Haram Police Station, on charges that he tortured actress Habiba while investigating the 1999 killing of Habiba's husband. Habiba was convicted and sentenced to 10 years in prison. After serving 5 years of her sentence, new evidence emerged, implicating five other persons in the murder. The Public Prosecutor also indicted these five new suspects. On February 17, the Court of Cassation accepted Habiba's appeal and ordered a retrial. The prosecution of Major El Akkad is scheduled to begin in February 2005.

On April 23, the Public Prosecutor directed a Qalyoubiya criminal court to charge a police captain from Kafr Shukr with excessive use of force. The captain had sought to arrest the son of Mabrouka Ibrahim Moselhi for theft. When Moselhi told the captain that her son was not at home, the captain assaulted her. After the assault, she required hospital treatment, and filed a complaint with the Public Prosecutor. By year's end, the Public Prosecutor had announced no additional developments in the case.

On April 5, the Court of Cassation rejected the appeal of Captain Ashraf Gohar of the Nasr City II police station. Gohar's conviction of charges stemming from the illegal detention, torture, and killing of Sayyed Eissa originally resulted in a 3-year sentence in 2002. A 2003 appeal to a lower court had reduced Gohar's sentence to 1 year, but the Court of Cassation affirmed the original penalty.

In May and again in December, the Alexandria Criminal Court postponed the case of Ahmed Khalil Ibrahim. Two officers and four policemen, including Yasser Youssri, had been charged with torture leading to the death of Ibrahim in 2002, as well as falsification of official documents to cover up the crime. The Association for Human Rights Legal Aid (AHRLA) also filed a civil case on behalf of Ibrahim's family seeking LE 10 million ($1.6 million) in compensation. The Court is scheduled to consider the case in March 2005.

On June 6, the Banha Criminal Court (in Qalyoubiya Governorate) began the trial of four police officers accused of forcing three members of a family to make a wrongful murder confession. The family members were convicted in 2003 and sentenced to 10 years' imprisonment. Shortly after they began their sentences, a serial killer confessed to the crime. The trial of the police officials was underway at year's end.

During the year, civil courts continued to review cases and frequently awarded compensation to victims of police abuse. Human rights observers recommended that rules and standards for victims be established to obtain redress and parity in compensation.

Civil cases won compensation for some victims of torture. For example, on February 25, the South Cairo Court of Compensations awarded Mustafa Ibrahim Amin Ibrahim LE 5,000 ($806) in punitive damages as a result of torture during his detention from 1999 to 2001. On July 26, the South Cairo Court of Compensations awarded Ibrahim an additional LE 10,000 ($1,612) in punitive damages for torture during detention from 1993 to 1995. Ibrahim, who spent 12 years in detention, was released in October 2003. HRAAP raised the case on Ibrahim's behalf.

On March 31, the South Cairo Court of Compensations awarded Hamdy Mahmoud Abdel Latif Emara LE 14,000 ($2,258) in punitive damages from torture during his detention from 1996 to 1998. Hamdy, who spent 6 years in detention, was finally released in July 1998. HRAAP raised the case on behalf of Hamdy. On April 14, another branch of the same court granted Hamdy an additional LE 7,000 ($1,129) in punitive damages for torture during his detention from 1992 to 1993.

On May 12, the South Cairo Court of Compensations awarded LE 15,000 ($2,419) punitive damages to Tarek Abdel Sattar Ahmed Murad as a result of torture during detention from 1997 to 1999. On May 26, another branch of the compensation court granted him an additional LE 15,000 ($2,419) in punitive damages. Notwithstanding his award, Murad remained in detention without charge. HRAAP pled the case on Murad's behalf.

On September 13, the South Cairo Court of Compensations awarded Abdel Fattah Mohamed LE 24,000 ($3,871) in punitive damages for torture during his detention period from 1994 to 1996. Mohamed spent 12 years in detention without charge through renewed detention orders. HRAAP raised the case on Mohammad's behalf.

In 2002, police arrested Zaki Saad Zaki Abd al-Malak, a 23-year resident of Ismailia in an Internet sting operation. Human Rights Watch (HRW) reported that police beat him daily during 2 weeks of detention in Agouza Police Station. Malak was sentenced to 3 years' imprisonment, followed by 3 years' police supervision. According to reports, he was being held in Borg al-Arab prison near Alexandria. On October 17, the Court of Cassation overturned Zaki's conviction on appeal, and he was released.

In 2002, three domestic human rights associations, as well as two international organizations, presented their allegations and findings to the U.N. Committee Against Torture (the "Committee"), a subcommittee of the U.N. Commission on Human Rights. The Committee's report expressed concerns about the continued implementation of the state of emergency; consistent reports of torture and ill treatment; abuse of juveniles and homosexuals; the continued use of administrative detention; the lack of access by victims of torture to the courts and lengthy proceedings; and disparities in the awarding of compensation.

The report included several recommendations: ending the state of emergency; the adoption of a clear legal definition of torture; the abolition of incommunicado detention; the review of military court decisions by a higher tribunal; the removal of ambiguities in the law that allow the prosecution of individuals for their sexual orientation; the acceptance of a visit by a U.N. Special Rapporteur on Torture; the establishment of rules and standards for victims; and allowing human rights organizations to pursue their activities unhindered. The Government maintained that the Committee's recommendations were under review at year's end.

Actions cited by the Government include the abolition of flogging in prisons; unannounced inspections of places of detention; court decisions that disregarded confessions obtained under duress; increased human rights training for police officials; and the establishment of several human rights committees and departments within government ministries. With assistance from the U.N. Development Program, the Government began to implement the Committee's recommendation for increased human rights training for law enforcement personnel and prosecutors.

The Government did not permit a visit to the country by the U.N. Special Rapporteur on Torture during the year.

Prison conditions remained poor. EOHR and HRAAP both stressed the deteriorating conditions in prisons, especially overcrowded cells and a lack of medical care, proper hygiene, food, clean water, proper ventilation, and recreational activities. Tuberculosis was widespread; overcrowded cells remained a problem. Some prisons continued to be closed to the public.

In July, HRAAP stated in its 2003 annual report that prison conditions remained dismal. HRAAP emphasized the deteriorating conditions in temporary detention.

In October, Al-Ahram newspaper reported that the MOI was planning to deliver a statement to the People's Assembly (Committee for Defense and National Security) on the violation of rights of detainees at police stations. This initiative came in response to the interpellations by several Members of Parliament concerning the deaths of two detainees who were being transported from the Libyan border to Cairo (*see* Section 1.a.). At year's end, the Ministry had not provided its statement to the People's Assembly.

Failure to implement judicial rulings regarding the release of administrative detainees and the opening of prisons to visits remained a problem. Relatives and lawyers often were unable to obtain access to prisons for visits. Restrictions were placed on visits to prisoners incarcerated for political or terrorist crimes, limiting the number of visits allowed for each prisoner and the total number of visitors allowed in the prison at one time.

On August 22, Dar al-Ifta, the official body responsible for issuing Islamic fatwas (legal opinions) issued a legal opinion that all prisoners should be allowed spousal visits on a monthly basis.

As required by law, the public prosecutor continued to inspect all regular prisons during the year; however, findings were not made public. The SSIS "detention centers" were excluded from mandatory judicial inspection.

There were separate prison facilities for men, women, and juveniles. In practice, the separation of adults from juveniles did not always occur, and abuse of minors was common. Civilians were not detained in military prisons. Political prisoners generally were detained separately from prisoners convicted of violent crimes.

Lawyers were permitted to visit prisoners in their capacity as legal counsel; however, in practice, they often faced considerable bureaucratic obstacles that prevented them from meeting with their clients (*see* Section 1.d.). The International Committee of the Red Cross (ICRC) and other domestic and international human rights monitors did not have access to prisons or to other places of detention.

On November 1, inmates at Abu Zabal prison began a hunger strike to protest conditions at the prison, which was ongoing at year's end. The prisoners' complaints included mistreatment, inadequate medical care, poor sanitation, and limits on visitors.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, during the year, security forces conducted large-scale arrests and detained hundreds of individuals without charge. Police also at times arbitrarily arrested and detained persons.

Previously, to obtain a warrant from a judge or prosecutor, the Constitution provided that police had to show that an individual likely committed a specific crime. The Emergency Law nullified this requirement in 1981 and provides that in order to obtain a warrant, police must show only that an individual poses a danger to security and public order.

The country has both local and national law enforcement agencies, all of which fall under the Ministry of Interior. Local police operate in large cities and governorates. State Security and Central Security Force officers are responsible for law enforcement at the national level and for providing security for infrastructure and key officials, both domestic and foreign. Single-mission agencies, such as the Tourist and Antiquities Police and the Anti-Narcotics General Administration, also work at the national level.

There were continued instances of torture by police, and human rights monitors believed the use of torture by police was widespread. Although some police were prosecuted, human rights monitors believed most incidents of torture went unpunished. There was widespread petty corruption in the police force, especially below senior levels. There is an internal affairs mechanism, the workings of which are not publicized, which was regularly employed for investigating corruption and other instances of police malfeasance. Judicial recourse was also employed (*see* Section 1.c.).

The Emergency Law allows detention of an individual without charge for up to 30 days, after which a detainee may demand a court hearing to challenge the legality of the detention order, and may resubmit his motion for a hearing at 1-month intervals thereafter. There is no limit to the detention period if a judge continues to uphold the detention order or if the detainee fails to exercise his right to a hearing. Incommunicado detention is authorized for prolonged periods by internal prison regulations. Human rights groups and the U.N. Committee Against Torture both expressed concern over the application of measures of solitary confinement.

Access to counsel is provided in normal cases, but there were reports that some suspects detained under the normal Penal Code experienced difficulties meeting with counsel. In Emergency Law cases, however, access to counsel was often restricted or denied prior to the transfer of the accused to a courtroom for the start of proceedings. Many detainees under the Emergency Law remained incommunicado in State Security detention facilities without access to lawyers. After these cases are transferred to trial, the court appoints a lawyer from a duty roster issued by the Bar Association.

In addition to the Emergency Law, the Penal Code also gives the State broad detention powers. Under the Penal Code, prosecutors must bring charges within 48 hours following detention or release the suspect. However, they may detain a suspect for a maximum of 6 months pending investigation. Arrests under the Penal Code occurred openly and with warrants issued by a district prosecutor or judge. There is a functioning system of bail for persons detained under the Penal Code. The Penal Code contains several provisions to combat extremist violence, which broadly define terrorism to include the acts of "spreading panic" and "obstructing the work of authorities."

Hundreds, perhaps thousands, of persons have been detained administratively in recent years under the Emergency Law on suspicion of terrorist or political activity. Several thousand others have been convicted and were serving sentences on similar charges (*see* Section 1.e.). In a July 2003 interview published in Al-Ahram Weekly, HRAAP (formerly HRCAP) estimated that the total number of persons held in ad-

ministrative detention was approximately 15,000. HRAAP further estimated that about 7,000 additional persons have been released over the past 3 years. According to HRAAP, approximately 300 detainees, including convicts with remaining sentences and those who had been held under emergency administrative detention, were released during the year. In addition to these individuals, a much larger number of regular convicts were released during the year, as result of having completed their sentences.

In August 2003, 37 men suspected of belonging to the banned Gama' al-Islami (Islamic Group, IG), which took part in a violent campaign to overthrow the Government in the 1990s, were arrested. The men remained in detention at year's end.

On March 22, HRAAP appealed to the President for the release of 55 Egyptians and Palestinians arrested in 2000 for participating in pro-Palestinian/Intifada demonstrations. The 55 detainees remain in Gharbaniyat Prison in Alexandria. HRAAP claimed that many suffered serious health problems.

On May 9, the leftist Al Arabi newspaper reported that the MOI "secretly" released 100 detained members of Gama' al-Islami who had served their terms or whose administrative detention orders had expired.

On June 18, in an interview with Al-Wafd newspaper, General Mahmoud Wagdy, Assistant to the Minister of Interior and Director of the Prison Authority, stated that 500 detainees had been released in April. In the past, these types of releases often included a mix of two groups: prisoners detained for political or security reasons; and ordinary convicts who have completed their sentences. The Government has not normally provided details on categories of prisoners released.

On June 10, the Minister of Interior established a permanent "probation board" to review cases of inmates eligible for early releases. The board planned to tour one prison each month. On August 16, a first group of 164 inmates—including 8 political detainees—was released.

On July 5, HRAAP issued a statement claiming that police arrested 51 relatives of escaped convict Mohamed Saleh Abdel Mohsen in order to pressure him to surrender to police. The MOI admitted that the arrests occurred, but denied that any of the detainees were tortured. Mohsen was a drug kingpin who escaped from Mansoura prison along with seven other prisoners.

In mid-November, HRAAP and EOHR issued press releases calling on the Government to release detainees, estimated to number 3,000, whom government security forces arrested in the Sinai, mostly around the town of Al-Arish, after the October 7 terrorist bombings in Taba and Nuweiba that killed 34 people. On November 29, Amnesty International (AI) also condemned the detentions and called on the Government to release the detainees. Government officials acknowledged that they made an unspecified number of arrests in connection with the investigation, but insisted that the reports by human rights groups were exaggerated.

In mid-November, on the occasion of the Eid al-Fitr holiday at the end of Ramadan, the local and international media reported that the Government released approximately 700 Islamist detainees.

During the year, security forces arrested approximately 90 persons allegedly associated with the Muslim Brotherhood (MB), which has been an illegal organization since 1954. Charges leveled against members included membership in and revival of a banned organization; obstructing the laws and Constitution of the country; inciting the masses against the Government; organizing demonstrations critical of the Government's policies; and attempting to infiltrate student bodies to spread the ideology of a banned organization.

On January 8, security forces arrested 13 MB members in Giza. On May 15, security forces arrested 59 MB members, mainly from Alexandria. On September 17, security forces arrested 11 MB members, mostly Zaqaziq University students. On or about October 11, security forces arrested eight MB members in separate incidents at Cairo airport, Minya, and Beni Suef. Among those detained was Ahmed Ezz Iddine of the suspended Al-Shaab newspaper. On December 31, he was released after public calls for his release by the Arab Press Federation. Also during the year, the Government released at least 31 other MB members.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the President may invoke the Emergency Law to refer any criminal case to the Emergency Courts, in which the accused does not receive most of the constitutional protections of the civilian judicial system. The Government has asserted that referral to Emergency Courts usually has been limited to terrorism or national security cases, as well as major cases of drug trafficking; however, the Government also has occasionally used Emergency Courts to prosecute homosexuals, heterodox religious groups, and political dissidents. Government authorities ignored judicial orders in some cases. The Government has used the Emergency Law, which

was established to combat terrorism and grave threats to national security, to try cases outside of this scope.

In May 2003, the Government formally abolished State Security Courts. The courts had been criticized for restricting the rights of defendants, particularly the right to appeal. A number of cases referred to the State Security Courts were transferred to regular criminal courts. However, skeptical observers of the legal system argued that as long as the Government retained and used Emergency Courts, the abolition of State Security Courts did not constitute a fundamental improvement.

The Constitution provides for the independence and immunity of judges and forbids interference by other authorities in the exercise of their judicial functions. This provision generally was observed in practice. The President appoints all judges upon recommendation of the Higher Judicial Council, a constitutional body composed of senior judges. Judges are appointed for life, with mandatory retirement at age 64. Only the Higher Judicial Council may dismiss judges for cause, such as corruption. Headed by the President of the Court of Cassation, the Council regulates judicial promotions and transfers. The Government included lectures on human rights and other social issues in its training courses for prosecutors and judges.

In the civilian court system, there are criminal courts, civil courts, administrative courts, and a Supreme Constitutional Court. There are three levels of regular criminal courts: Primary courts, appeals courts, and the Court of Cassation, which represents the final stage of criminal appeal. Civil courts hear civil cases and administrative courts hear cases contesting government actions or procedures; both systems have upper-level courts to hear appeals. The Supreme Constitutional Court hears challenges to the constitutionality of laws or verdicts in any of the courts.

A lawyer is appointed at the state's expense if the defendant does not have counsel. Appointed lawyers are drawn from a roster chosen by the Bar Association. Defendants can appeal if denied this right; however, detainees in certain high-security prisons continued to allege that they were denied access to counsel or that such access was delayed until trial, thus denying counsel the time to prepare an adequate defense (*see* Sections 1.c. and 1.d.). A woman's testimony is equal to that of a man's in court. There is no legal prohibition against a woman serving as a judge; however, there has only been one female judge (*see* Section 5).

In 1992, following a rise in extremist violence, the Government began using military tribunals to adjudicate cases involving persons accused of terrorist activity or membership in terrorist groups. In 1993, the Supreme Constitutional Court ruled that the President may invoke the Emergency Law to refer any crime to a military court. The 1993 ruling in effect removed hundreds of civilian defendants from the normal process of trial by a civilian judge. The Government defended the use of military courts as necessary to try terrorism cases, maintaining that trials in the civilian courts were protracted and that civilian judges and their families were vulnerable to terrorist threats. One case involving civilian defendant Ahmed Hussain Agiza was referred to a military court during the year.

Military verdicts were subject to a review by other military judges and confirmation by the President, who in practice usually delegated the review function to a senior military officer. Defense attorneys claimed that they were not given sufficient time to prepare and that military judges tended to rush cases involving a large number of defendants. Judges had guidelines for sentencing, defendants had the right to counsel, and statements of the charges against defendants were made public. Observers needed government permission to attend. Diplomats attended some military trials during the year. Human rights activists have attended, but only when acting as lawyers for one of the defendants.

On April 27, the Supreme Military Court convicted Ahmad Hussein Agiza, rendered from Sweden in 2001, of crimes in connection with his membership in Islamic Jihad. Agiza was sentenced to 25 years in prison, although in June his sentence was commuted to 15 years. The Swedish Embassy in Cairo closely monitored Agiza's detention conditions in an apparent effort to ensure that he was not mistreated.

The Emergency Courts share jurisdiction with military courts over crimes affecting national security. The President can appoint civilian judges to these courts upon the recommendation of the Minister of Justice or military judges upon recommendation of the Minister of Defense. Sentences are subject to confirmation by the President. There is no right to appeal. The President may alter or annul a decision of an Emergency Court, including a decision to release a defendant.

During the year, Emergency Courts handed down verdicts in three cases. On March 25, the Supreme Emergency Court issued a guilty verdict in the case of 12 members of the Islamic Liberation Party (Hizb al-Tahrir al-Islami). Several of the defendants, including three Britons, alleged they had been tortured to compel them to sign confessions. Sentences for the group ranged from 1 to 3 years.

On March 11, an Emergency Court acquitted Ashraf Ibrahim and four co-defendants who had been accused of sharing information about human rights abuses with foreign groups and of belonging to the "Revolutionary Socialists" group, alleged to be seeking to overthrow the Government. The co-defendants had been listed as fugitives and remained at large. Ibrahim was arrested in March 2003 following demonstrations against the U.S. invasion of Iraq. Human rights advocates had argued that the Government was persecuting Ibrahim for peaceful political activities (*see* Section 1.d.).

On March 31, the Supreme Emergency Court sentenced a law student to 15 years of "strict imprisonment" for communicating with a foreign country and offering to provide it with sensitive information.

During the year, the Government continued to try and convict journalists and authors for libel, as well as for expressing their views on political and religious issues (*see* Sections 2.a. and 2.c.).

According to local human rights organizations, there were approximately 13,000 to 16,000 persons detained without charge on suspicion of illegal terrorist or political activity (*see* Section 1.d.). In addition, several thousand others were serving sentences after being convicted on similar charges.

The Government did not permit international humanitarian organizations access to political prisoners (*see* Section 1.c.). In 2002, an AI delegation was permitted to visit the country, but authorities denied the group's request to visit detainees. There were no prison visits by international organizations during the year, although the National Council for Human Rights did conduct a series of prison visits during the second half of the year.

On August 1, the Public Prosecutor Maher Abdel Wahed told the press that the State intended to limit trials in Emergency Courts only to cases that touch upon security of the State. As an example, Abdel Wahed said that a case where two jewelry store robbers had used a bomb was referred to a regular criminal court. Nothwithstanding this assertion, the Government initiated Emergency Court proceedings against a self-proclaimed prophet and his followers in December (*see* Section 2.c.).

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution provides for the sanctity and secrecy of the home, correspondence, telephone calls, and other means of communication; however, the Emergency Law suspends the constitutional provisions regarding the right to privacy, and the Government used the Emergency Law to limit these rights. Under the Constitution, police must obtain warrants before undertaking searches and wiretaps. Courts have dismissed cases in which warrants were issued without sufficient cause. Police officers who conducted searches without proper warrants were subject to criminal penalties, although penalties seldom were imposed. However, the Emergency Law empowers the Government to place wiretaps, intercept mail, and search persons or places without warrants. Security agencies frequently placed political activists, suspected subversives, journalists, foreigners, and writers under surveillance, screened their correspondence (especially international mail), searched them and their homes, and confiscated personal property.

A telecommunications law allows telephone and Internet wiretaps only by court order. However, some human rights observers alleged that the Government routinely violated this law.

Although the law does not explicitly criminalize homosexual acts, police have targeted homosexuals using Internet-based "sting" operations leading to arrests on charges of "debauchery." There were no reports of new internet entrapment cases during the year (*see* Sections 1.c, 1.e., and 2.a.).

The Ministry of Interior has the authority to stop specific issues of foreign newspapers from entering the country on the grounds of protecting public order. There were no reports that it had exercised this authority during the year (*see* Section 2.a.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, the Government partially restricted these rights in practice. The Government used the Emergency Law to infringe on citizens' civil liberties. Citizens openly expressed their views on a wide range of political and social issues, including vigorous criticism of government officials and policies, but generally avoided certain topics, such as direct criticism of the President. Journalists and writers practiced self-censorship.

In March 2003, the Court of Cassation, ending a long-standing legal case that had broad implications for freedom of expression and human rights advocacy, acquitted Saad Eddin Ibrahim and his codefendants on charges of defaming the State and ille-

gally accepting foreign funds. During the year, Ibrahim and his colleagues resumed their publishing and advocacy operations.

The Constitution restricts ownership of newspapers to public or private legal entities, corporate bodies, and political parties. There are numerous restrictions on legal entities that seek to establish their own newspapers, including a limit of 10 percent ownership by any individual; however, this limit appeared to have been enforced sporadically.

On July 13, the Shura Council's Higher Council for the Press approved the publication of 16 new newspapers; and on December 29, it approved an additional 9 newspapers, including "Al-Ghad," the new publication of the Al-Ghad (Tomorrow) Party.

The Government owned stock in the three largest daily newspapers, and the President appointed their top editors. These papers generally followed the government line. The Government also held a monopoly over the printing and distribution of newspapers, including those of the opposition parties. The Government used its monopoly on newsprint to limit opposition publications.

Opposition political parties published their own newspapers but received a subsidy from the Government and, in some cases, subsidies from foreign interests. Most opposition newspapers were weeklies, with the exception of the dailies Al-Wafd and Al Ahrar, both of which had small circulation. Opposition newspapers frequently published criticism of the Government. They also gave greater prominence to human rights abuses than did state-run newspapers.

According to a 2003 announcement by the Shura Council, the total number of licensed periodicals in the country was 534, including 64 national papers, 40 opposition party papers, 7 private newspapers, 252 "specialized" publications, 142 scientific journals, and 67 local publications.

In March, the Government lifted its ban on the London-based Arabic newspaper al-Quds al-Araby, and the paper is now back in circulation.

Because of the difficulties in obtaining a license from the Higher Council for the Press, several publishers of newspapers and magazines obtained foreign licenses. The Supreme Constitutional Court still had not reached a decision by year's end on a 1999 legal challenge to the constitutionality of the Information Ministry's practice of censoring offshore publications.

On February 20, then-Minister of Information Safwat El Sherif announced a cabinet decision to limit print runs for foreign-licensed publications to between 5,000 and 25,000 copies, ordered that the papers must pay 36 percent tax on advertising revenues, and prohibited foreign funding.

According to press reports, on June 14 the Administrative Court overturned a decision by the Ministry of Information to prevent a foreign publication from entering the country. The Court clarified that only the Cabinet can place a long-term ban on a foreign publication. The Ministry of Information is empowered only to ban particular issues/editions in the interest of public order.

The Penal Code, Press Law, and Publications Law govern press issues. The Penal Code stipulates fines or imprisonment for criticism of the President, members of the Government, and foreign heads of state. The Press and Publication Laws ostensibly provide protection against malicious and unsubstantiated reporting. In recent years, opposition party newspapers have published within limits articles critical of the President and foreign heads of state without being charged or harassed. However, the Government continued to charge journalists with libel. An editor-in-chief found to be negligent could be considered criminally responsible for libel contained in any portion of the newspaper.

On November 1, unknown assailants detained and beat Abdul Halim Qandil, editor of Al-Araby, the Nasserist opposition party newspaper. Qandil and many others in the media attributed the attack to elements of the State Security apparatus who were angered by Qandil's editorial calls for public opposition to the Government. Qandil had also publicly cast doubt on the MOI's claims to have solved the October 7 bombings that targeted tourist sites in the Sinai.

During the year, the courts tried a number of prominent cases of libel, filed both by government officials and private citizens. On January 28, the Qasr El Nil Court of Misdemeanors sentenced writers Etemad Khorshid and Anis El Degheidy, along with publisher Hassan Ghazal, each to 1 year of imprisonment and LE 1,000 ($160) fine. The Court ruled that the trio had insulted Egyptian actress Sherihan in their book "Witness to the Transgressions of Art and Politics."

On March 14, the Cairo Criminal Court fined Mahmoud El Askalany, a journalist with al-Araby newspaper, LE 20,000 ($3,225) for libel against Minister of Housing Mohammed Ibrahim Soliman. On May 15, lawyers appealed the fine to the Court of Cassation on the grounds that the law does permit criticism of public figures so

long as the criticism is limited to public matters of job performance and does not delve into personal issues. By year's end, the Court had still not issued a judgment.

On June 16, the Cairo Criminal Court sentenced tabloid daily al-Osbu'a journalist Ahmed Ezz Eddine to 2 years in prison (with labor) and a fine of LE 20,000 ($3,225) for libel of former Agriculture Minister Wally. Ezz Eddine had written an article accusing Wally of perjury in a corruption case. The former minister contended that the accusation was against his person and not against his capacity as a minister.

On June 27, the Bulaq Aboul Ela Court of Misdemeanors sentenced Mohammed Abu Liwaya of the banned al-Shaab newspaper and Fayez Abdel Hamid of the Parliament News to 6 months' imprisonment, fines of LE 7,500 ($1,209) each, and damages of LE 20,000 ($3,225) for libeling Al-Ahram Chairman Ibrahim Nafei through articles and leaflets.

On July 27, the Cairo Criminal Court fined an editor and journalist of al-Haqiqa newspaper LE 10,000 ($1,612) for libeling the head of the Qussiya City Council.

On September 14, the Cairo Criminal Court began to hear another case of libel filed by Minister of Housing Soliman against three journalists with al-Masri al-Youm. Following questioning by the prosecutor, the three journalists were released on September 21. The case was ongoing at year's end.

In December 2003, Mustafa Bakry, Chief Editor of al-Osbu'a, filed a lawsuit with the office of the Public Prosecutor accusing activist Saad Eddin Ibrahim of working for a foreign government in exchange for financial support. One week later, Ibrahim filed a libel suit against Bakry. The Public Prosecutor's investigation was ongoing at year's end, and the case had still not been referred to trial.

In March and April, four separate courts acquitted or ordered retrials for four unrelated lawsuits against journalists working for al-Osbu'a.

Under the law, the Public Prosecutor may issue a temporary ban on the publication of news related to national security. The length of the ban is based on the length of time required for the prosecution to prepare its case.

In December 2003, the Public Prosecutor issued a press ban on a corruption investigation of the director of the National Heart Institute. The ban continued to limit reporting on the case throughout the year.

The law provides penalties for individuals who disclose information about the State during emergencies, including war and natural disasters. The penalties include fines of up to LE 6,000 ($1,000) and prison sentences of up to 3 years. There were no reports that the law was applied during the year.

The law prohibits current or former members of the police from publishing work related information without prior permission from the MOI.

The law authorizes various ministries to ban or confiscate books and other works of art upon obtaining a court order. There were no court-ordered book confiscations during the year, but the Government permitted greater confiscatory authority to al-Azhar University.

On May 26, the Islamic Research Center (IRC) at al-Azhar University formally recommended banning four books: Nawal El Sadawi's "The Fall of the Imam"; Iskander Shaheen's "Freemasonry: Religion or Fraud"; Ali Youssef's "The Call of Consciousness"; and Hisham El Bahrani's "City of Miracles." Sadawi's book was first published 20 years ago and has been translated into 14 languages. Although the IRC's recommended bans led to widespread criticism from writers and human rights activists, the Ministry of Justice decided on June 1 to authorize al-Azhar's "inspectors" to seize publications, tapes, speeches, and artistic material that deviated from the IRC's interpretation of Shari'a. Prior to June 1, the IRC could not confiscate books it disapproved without first seeking a court order.

On August 18, the IRC banned "The Responsibility for the Failure of the Islamic State," by Gamal El Banna, a liberal Islamist thinker. The IRC ruled that Gamal El Banna's book deviated from Islamic orthodoxy, and began efforts to confiscate the book from the marketplace.

On October 24, EOHR issued a report which criticized IRC's book confiscations, terming them "a hammer blow to freedom of thought."

In September, the Alexandria Administrative Court heard a lawsuit filed by lawyer Nabih al-Wahsh demanding the confiscation of a book, "The Hijab: A Modernist Approach," by writer Ikbal Baraka. The suit also sought the dismissal of Baraka as chief editor of Hawwa Magazine and her dismissal from the Press Syndicate. The suit alleged that Baraka's book denied the religious sanction for the veiling of women. The suit also charged the ministers of culture, aviation, education, and information, as well as the Grand Imam of al-Azhar University, with having failed to block Baraka's book. A wide cross-section of writers and intellectuals, including Islamist writers, have criticized the effort to ban Baraka's book.

The MOI regularly confiscated leaflets and other works by Islamists and other critics of the State. Members of the illegal Muslim Brotherhood also were arrested

in connection with publications (*see* Sections 1.d. and 3). In many cases, the press reported that police confiscated written materials such as leaflets during the arrests.

Although the MOI has in previous years sporadically prevented specific issues of foreign published newspapers from entering the country on the grounds of protecting public order, there were no reports of such actions during the year (*see* Section 1.f.). The Ministry of Defense may ban works about sensitive security issues. The Council of Ministers may order the banning of works that it deems offensive to public morals, detrimental to religion, or likely to cause a breach of the peace.

The Government controlled and censored the state-owned broadcast media. The Ministry of Information owned and operated all ground-based domestic television and radio stations. Two private satellite stations, al-Mihwar and Dream TV, began broadcasting in 2001 and have operated without direct government interference. The Government has a 20 percent financial stake in al-Mihwar and a 10 percent stake in Dream TV. The Government did not block reception of foreign channels via satellite. The percentage of citizens who received satellite television broadcasts has grown steadily but remained small, while many coffee shops and other public places offered satellite television.

Plays and films must pass Ministry of Culture censorship tests as scripts and final productions. The Ministry of Culture censored foreign films to be shown in theaters, but was more lenient regarding the same films in videocassette format. Government censors ensured that foreign films made in the country portrayed the country in a favorable light.

On April 20, the Censorship Department refused to permit public viewing of an American film, "The Code," on grounds that it depicted a gang of outlaws with Arabic names.

Also in June, the Censorship Department formed a committee of cultural figures (both Muslim and Christian) to review a new film ("I Love the Cinema"/"Bahebb El-Cinma") which told the story of Egypt's Coptic Orthodox minority during the Nasser era. After initial screenings, Muslim and Christian lawyers filed a complaint with the Public Prosecutor, seeking to have the film removed from distribution and the film producers tried for "contempt for religion." There was no final decision by year's end. Audiences were able to see the film at a number of theaters during the year. It was also well received at international film festivals.

In August, the Censorship Department rejected a screenplay by writer Wahid Hamed on the subject of government corruption and influence of the media. Without the Censorship Department's approval, Hamed was unable to proceed with making his film.

Government and private industry experts estimated that approximately 3.8 million persons in the country used the Internet. The Government did not restrict Internet use, but selectively monitored Internet use (*see* Section 1.f.).

On May 15 and again on September 1, the Muslim Brotherhood website became temporarily unavailable to Egyptian Internet users. Since the May outage corresponded to the arrest of 59 MB members, there was widespread belief that the security services shut down the website.

The Government did not explicitly restrict academic freedom at universities; however, the Government selected deans rather than permitting the faculty to elect them. The Government justified the measure as a means to combat Islamist influence on campus. Unlike in the past, the Government did not ban books for use on campuses during the year.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association; however, the Government significantly restricted freedom of assembly. Citizens must obtain approval from the MOI before holding public meetings, rallies, and protest marches. Many demonstrations were not approved, and the Government tightly controlled public demonstrations that did occur. However, on December 12, 300 activists from the Kifaya (Enough) movement staged a protest against President Mubarak running for a fifth term in office. There was little direct government interference in the December 12 demonstration, although security personnel significantly outnumbered demonstrators (*see* Section 3). The MOI selectively obstructed some meetings scheduled to be held on private property and university campuses (*see* Section 4).

On a number of occasions, worshippers at the Al-Azhar mosque in Central Cairo held mainly impromptu demonstrations at the conclusion of Friday prayers. These were tolerated but carefully watched by the Government.

Some smaller anti-Iraq war demonstrations were held with and without permission. In both cases, the Government deployed large numbers of security personnel to contain the demonstrations. In a number of unauthorized demonstrations, police

detained suspected organizers, some of whom alleged mistreatment while in detention (*see* Sections 1.c. and 1.d.).

The Constitution provides for freedom of association; however, the Government significantly restricted it in practice. The Minister of Insurance and Social Affairs has the authority to dissolve NGOs by decree. The law also requires NGOs to obtain permission from the Government before accepting foreign funds. According to government officials, funds from foreign government donors with established development programs in the country were excluded from this requirement.

During the year, a number of organizations active in human rights advocacy and civil society development were allowed to register and thus became officially recognized. However, several other groups, including the Egyptian Association Against Torture, the Center for Housing Rights, and the Word Center, continued to be denied registration as NGOs. On October 25, the Governor of Aswan issued an administrative decree dissolving the board of directors of the Aswan-based Association for Health Development and the Environment and appointed a new board. The association's leadership countered with a lawsuit against the Governor, charging that his act was in direct contradiction to the NGO law (Act 84 of 2002). In at least two cases, obscure "security objections" were cited in their rejection letters. These groups were challenging these decisions at year's end.

On January 29, the Ministry denied the application for registration of a human rights NGO in Qena Governorate. In January, a MB member, Mukhtar Nouh, who had spent 3 years in prison, sought to register a NGO called "The Association for the Protection of Constitutional Values." The 18-member board consisted exclusively of lawyers. The Association's plan was to be limited to lawyers and to work, independently of the Bar Syndicate, to improve the profession and promote liberal ideas, and to improve the status of women and Coptic Christians. On July 7, the Association's lawyers appealed to the courts after the Ministry of Social Affairs rejected the application. The case was still pending at year's end.

On February 8, an Administrative court ordered the Ministry to approve and register the "Sons of the Land Association for Human Rights." The Court ruled that the new organization had met all registration requirements and did not pose a security threat. The Ministry registered the organization, and it was functioning at year's end.

In June, the "Sawasiya Center for Human Rights and Anti-Discrimination" registered as a regional NGO with a board of 15 prominent Arab personalities from the region and Europe. The center's Executive Director, Abdel Moneim Abdel Maksoud, is a leading member of the MB, as well as its lawyer. Abdel Maksoud told the press that Sawasiya included various political thinkers from around the world and that it was not directly or indirectly affiliated with the MB.

In May, 18 human rights organizations signed an agreement establishing the Egyptian Human Rights Organization collective. On July 3, 14 human rights groups announced the formation of a national federation of human rights NGOs. In October, three leading NGOs (HRAAP, the Arab Center for the Independence of the Judiciary, and the Group for Democratic Development) established the "Alliance for Democracy and Reform."

In September 2003, the "New Woman Center for Research," a human rights group previously denied registration by the Ministry of Social Affairs, won a court judgment ordering the Ministry to allow it to register as an NGO. The Ministry implemented the judgment 1 year later in September (*see* Section 4).

Under legislation governing professional syndicates, at least 50 percent of the general membership of an association must elect the governing board. Failing a quorum, a second election must be held in which at least 30 percent of the membership votes for the board. If such a quorum is unattainable, the judiciary may appoint a caretaker board until new elections can be scheduled. The law was adopted to prevent well organized minorities, specifically Islamists, from capturing or retaining the leadership of professional syndicates. Members of the syndicates have reported that Islamists have used irregular electoral techniques, such as physically blocking polling places and limiting or changing the location of polling sites.

c. Freedom of Religion.—The Constitution provides for freedom of belief and the practice of religious rites; however, in practice the Government placed restrictions on these rights. The Constitution provides that Islam is the official state religion and the primary source of legislation. Religious practices that conflict with Islamic law (Shari'a) are prohibited. However, significant numbers of the Christian and Jewish minorities worshipped without harassment and maintained links with coreligionists in other countries.

Most citizens (approximately 90 percent) are Sunni Muslims. There is a very small number (a fraction of 1 percent) of Shi'a Muslims. Approximately 10 percent

of the population are Christian, the majority of whom belong to the Coptic Orthodox Church. There are other small Christian denominations, a small Baha'i community, and a Jewish community of approximately 200 persons.

All mosques must be licensed, and the Government was engaged in an effort to control them. The Government appointed and paid the salaries of the imams who led prayers in mosques, proposed themes for them, and monitored their sermons. In 2003, Dr. Hamdy Zaqzouq, Minister of Religious Endowments, said there were 30,000 imams in the country, who preached at 82,000 mosques and zawaya (smaller prayer halls in private buildings). He said that his ministry annexed approximately 6,000 unregistered mosques and zawaya every year.

Neither the Constitution nor the Civil and Penal Codes prohibit proselytizing or conversion; however, the Government discouraged proselytizing by non-Muslims, and those who did so risked prosecution under the Penal Code, which prohibits citizens from ridiculing or insulting heavenly religions or inciting sectarian strife.

There were no restrictions in practice on the conversion of non-Muslims to Islam; however, in cases involving conversion of Muslims to Christianity, the Government generally denied requests by converts to amend civil records to reflect their new religious status. The law prescribes steps to register the conversion of non-Muslims to Islam, but does not recognize the conversion of Muslims to other religions. Some converts resorted to changing their documents themselves, or bribing a civil servant to do so. Authorities have charged several converts with violating laws prohibiting the falsification of documents. In such instances, converts have themselves altered their identification cards and other official documents to reflect their new religious affiliation because of fear of government harassment if they officially registered the change from Islam to Christianity. For example, in 2002, Malak Fahmi, a Christian, and his wife Sarah, a Christian convert from Islam, were arrested while attempting to leave the country with their two children. The couple was charged with falsification of documents. Sarah, who changed her name and religious affiliation on her marriage certificate only, reportedly stated that she did so without her husband's assistance. The couple was released from prison in February, but was awaiting trial on charges of document fraud. At year's end, there had been no developments in the case.

Converts to Islam are not permitted to revert to their original religion. The minor children of converts to Islam, and in some cases adult children, may automatically become classified as Muslims in the eyes of the state regardless of the status of the other spouse. This automatic classification is in accordance with established Shari'a rules, which dictate "no jurisdiction of a non-Muslim over a Muslim."

In some cases, converts reported being subjected to harassment from the Government, including regular questioning and restriction of travel abroad. Converts from Islam to Christianity continued to report societal discrimination.

Hisham Samir Abdel Lateef Ibrahim, a convert to Christianity first detained in 2002 and believed to have been charged with "forging identity documents" and "contempt of religion," was reportedly released during the year but remained on probation.

Repairs to all places of worship are subject to a 1976 civil construction code which governs church repairs. The decree was significant symbolically because it made churches and mosques equal under the law. Christians reported that local permits still were subject to approval by security authorities.

Although the Official Gazette only publicized government issuance of less than a dozen church construction and repair permits during the year, government officials asserted that most permits were not published in the Official Gazette, and said that they issued 254 permits for building and repair of churches between January 1 and June 15.

The approval process for church construction suffered from delays and was considered to be insufficiently responsive to the Christian community, although the President reportedly approved all requests for permits that were presented to him. The incidence of blocked or delayed orders varied, often depending on the church's relationship with local security officials and the level of support of the local governor. Christian activists, including church officials, consistently remarked that regardless of the formal approval process and the stated support of senior government officials for church construction, local officials in some governorates opted to take an uncooperative and obstructionist approach to church construction and repair.

The Constitution requires schools to offer religious instruction. Public and private schools provided religious instruction according to the faith of the student.

The Government occasionally prosecuted members of religious groups whose practices deviated from mainstream Islamic beliefs and whose activities were believed to jeopardize communal harmony. On January 28, a State Security Emergency Court reduced the sentences of Sayed Tolba and 20 of his associates to time served.

They were convicted 2002 on the charge of insulting heavenly religions, as a result of Tolba's claim that he was a prophet and could cure illnesses.

On December 1, the Public Prosecutor referred 13 individuals to trial by a State Security Emergency Court on charges of insulting heavenly religions. The leader of the 13, who were arrested in August in Qaloubiya, was Ahmed Ibrahim Abou Shousha, who had asserted that he was a prophet on par with the Prophet Mohammad. Shousha had called for various innovations on orthodox Islamic practice.

In December 2003, State Security Court forces arrested and detained without charge 20 suspected Shi'a Muslim citizens, reportedly due to concerns that they were a threat to petroleum facilities and were engaging in anti-State activity. A leading Egyptian civil rights group reported that the authorities tortured several in the group before releasing 16 of them. The four remaining detainees were held at Wadi Natroun prison. Three detainees were released in August, although Mohammad Ramadan El Dereiny remained in custody at year's end.

The Islamic Research Center of Al-Azhar University has authority to recommend that the Government censor books on religious grounds (*see* Section 2.a.).

The Constitution provides for equal public rights and duties without discrimination based on religion or creed; however, discrimination against minority religions, including Christians and Baha'is, existed. There were no Christians serving as governors, police commissioners, city mayors, public university presidents, or deans. There were few Christians in the upper ranks of the security services and armed forces. Discrimination against Christians also continued in public sector employment; in staff appointments to public universities; in failure (with the exception of one case in 2002) to admit Christians into public university training programs for Arabic language teachers that involved study of the Koran; and in payment of Muslim imams through public funds (Christian clergy are paid with private church funds).

There were no new reports of violent assaults by Gama' al-Islami (Islamic Group, IG) or other suspected terrorists against the approximately 7 million Coptic Christians. In a number of cases where victims alleged violence to be driven by sectarian tensions, particularly regarding murder, it was difficult to determine whether religion was a factor.

The prosecution failed to bring a successful case against those alleged to be responsible for the killing of 21 Christians during sectarian strife in early 2000 in the town of al-Kush, in Sohag Governate, Upper Egypt. On June 14, the Court of Cassation, the country's highest appellate court, upheld the acquittal of 94 of 96 suspects who were charged with various offenses committed in this incident. The Court's decision left no further legal options.

In the investigation of an earlier incident in al-Kush in 1998 involving the killing of two Coptic Christians, police detained hundreds of citizens that same year, including relatives of suspects, women, and children. Local observers reported that many of these detainees were subjected to torture and mistreatment. An investigation of police torture of the mostly Christian detainees made little progress and has appeared effectively closed since 2001. Shayboub William Arsal, a Coptic Christian, was convicted and sentenced for the two murders and his appeal, which has been pending for 4 years, has not been heard. The local Christian community believes that Shayboub was accused and convicted of the crime because of his religion.

In January, Christian workers at the Patmos Center, a Coptic Orthodox social service facility on the Suez road east of Cairo, confronted soldiers and an army bulldozer dispatched from a military base adjacent to the facility. During the confrontation, one of the Christian workers was fatally struck by a private bus attempting to drive around the crowd. This incident was the latest in a series involving Patmos and the neighboring military base. The army's reported motive for bulldozing the gate was that the Patmos Center's wall stands 50 meters from the highway, while local zoning regulations require a distance of 100 meters. Christian sources noted that the army base's perimeter wall also is only 50 meters from the road, and they charged that the army's intent was to harass the Christians until they left the site so that it could be annexed by the military. Other observers believed the military's enmity was engendered by the "stealthy" way the church developed a Christian service facility on a site originally billed as an agricultural "desert reclamation project." The controversy subsided, and the Patmos gate remained in its original location.

There were reports of forced conversions of Coptic girls to Islam. Reports of such cases were disputed and often included inflammatory allegations and categorical denials of kidnapping and rape. Observers, including human rights groups, found it extremely difficult to determine whether compulsion was used, as most cases involved a Coptic girl who converted to Islam when she married a Muslim man. Ac-

cording to the Government, in such cases the girl must meet with her family, with her priest, and with the head of her church before she is allowed to convert.

However, there were credible reports of government harassment of Christian families that attempted to regain custody of their daughters. The law states that a marriage of a girl under the age of 16 is prohibited. Between the ages of 16 and 21, marriage is illegal without the approval and presence of her guardian. The authorities also sometimes failed to uphold the law in cases of marriage between underage Christian girls and Muslim boys.

There is no legal requirement for a Christian girl or woman to convert to Islam in order to marry a Muslim man. However, if a Christian woman marries a Muslim man, the Coptic Orthodox Church excommunicates her. Ignorance of the law and societal pressure, including the centrality of marriage to a woman's identity, often affect her decision. Family conflict and financial pressure also are cited as factors. Conversion is regarded as a disgrace to the convert's family, so most Christian families would object strongly to a daughter's wish to marry a Muslim. If a Christian girl converts to Islam, her family loses guardianship, which transfers to a Muslim custodian, who is likely to grant approval.

Anti-Semitism is found in both the pro-government and opposition press; however, there have been no violent anti Semitic incidents in recent years.

Anti-Semitic articles and opinion pieces in the print media and editorial cartoons appeared in the press and electronic media. For example, on March 18, Abdelwahab Ads, deputy editor of Al Jumhuriya, accused the Jews of the terrorist attack in Madrid on March 11 as well as of the September 11, 2001 attacks in the U.S.

On June 24 and July 1, the National Democratic Party (NDP) newspaper al-Lewa al-Islami published articles by Professor Refaat Sayed Ahmed in which he denied the Holocaust. On August 25, the NDP announced that it had banned Professor Ahmed from future publishing, that the editor who approved his article had been fired, and that the NDP and the Government rejected anti-Semitism and acknowledged the reality of the Holocaust.

The Government reportedly advised journalists and cartoonists to avoid anti-Semitism. Government officials insisted that anti-Semitic statements in the media were a reaction to Israeli government actions against Palestinians and did not reflect historical anti-Semitism; however, there were relatively few public attempts to distinguish between anti-Semitism and anti-Israeli sentiment.

On January 5, the Supreme Administrative Court upheld a 2001 lower court decision to recommend the cancellation of the Abu Hasira festival (for Jewish pilgrims) in the Beheira Governorate. In 2003, the Ministry of Culture designated Abu Hasira's tomb as a "historic site" and ruled that an annual festival could be held. Villagers around the shrine protested, claiming that the Jewish visitors aggravated the locals with their drinking. There were reports in December, however, that Jewish pilgrims were again welcome to celebrate the Abu Hasira festival, scheduled for early January 2005.

In December 2003, following international expressions of concern, the special collections section of the Alexandria Library removed a copy of "The Protocols of the Elders of Zion" from a display of religious manuscripts. In a statement, the director of the library denied allegations that the book had been displayed next to the Torah, but nonetheless stated that its inclusion was a "bad judgment" and regretted any offense the incident might have caused.

Law 263 of 1960, which is still in force, bans Baha'i institutions and community activities. During the Nasser era, the Government confiscated all Baha'i community properties, including Baha'i centers, libraries, and cemeteries. The problems of Baha'is, who number fewer than 2,000 persons in the country, have been compounded since the MOI began to upgrade its automation of civil records, including national identity cards. The Government asserted that its new software requires all citizens to be categorized as Muslims, Christians, or Jews, although some Baha'is initially received identity cards which listed their religion as "other." During the year, Baha'is and other religious groups who did not choose to describe themselves as Muslim, Christian, or Jewish, were compelled either to misrepresent themselves as members of one of these three religions, or to go without valid identity documents, passports, birth and death certificates, and marriage licenses. Most Baha'is have chosen the latter course. The Government's unwillingness to issue Baha'is identity cards and other necessary documents made it increasingly difficult for Baha'is to register their children in school, to open bank accounts, and to register businesses. At year's end, some Baha'is reported that government representatives had offered them passports, but no other documents. The Baha'i leadership noted that while this would enable them to leave the country, it would not facilitate their continued residence in the country.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice; however, there were some notable exceptions. Citizens and foreigners were free to travel within the country, except in certain military areas. Males who have not completed compulsory military service may not travel abroad or emigrate, although this restriction may be deferred or bypassed under special circumstances. Unmarried women under the age of 21 must have permission from their fathers to obtain passports and travel. Married women no longer legally require the same permission from their husbands; however, in practice police reportedly still required such permission in most cases (*see* Section 5). Citizens who leave the country had the right to return.

The Constitution prohibits forced exile, and the Government did not use it during the year.

The Constitution includes provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government limited the ease with which the refugee population could integrate locally. The Government generally did not issue work permits to refugees. The Government admitted refugees on the understanding that their presence in the country was temporary. Because the country lacked national legislation or a legal framework governing the granting of asylum, the Office of the U.N. High Commissioner for Refugees (UNHCR) assumed full responsibility for the determination of refugee status on behalf of the Government. The Government generally cooperated with the UNHCR and treated refugees in accordance with minimum standards and agreed arrangements. The UNHCR provided recognized refugees with a refugee identification card that was considered a residence permit and bore the stamp of the national authorities. Refugees generally may not obtain citizenship.

During the year, approximately 9,000 recognized refugees, the majority of whom were Sudanese, resided in the country. In addition, 70,000 Palestinian refugees are registered with government authorities. There were also approximately 16,000 asylum seekers awaiting status determination. Although there was no pattern of abuse of refugees, during random security sweeps the Government temporarily detained some refugees who were not carrying proper identification. Following intervention by the UNHCR, the refugees were released.

There were occasional reports that human rights activists were briefly detained for questioning at international ports of entry/departure. On May 19, Cairo airport security personnel prohibited four members of a delegation from the Egyptian Center for Housing Rights from traveling to Thailand to attend a workshop. The delegation canceled its trip and complained to the Ministry of Interior, but it never learned the reason for the ban.

Also during the year, the security services prevented three members of the MB (Essam El Erian, Abdel Hamid El Ghazaly, and Mohsen Radi), as well as MB-affiliated journalist Ahmed Ezz Eddine, from traveling to meetings outside the country (*see* Section 4).

The disappearance of Yemeni dissident Ahmed Salem Ebeid, who EOHR alleged was sent by the Government to Yemen, may have involved the forced return of a person to a country where he feared prosecution (*see* Section 1.b.).

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

Citizens did not have the meaningful right to change their government. The ruling National Democratic Party (NDP) dominated the 454 seat People's Assembly, the 264-seat Shura Council, local governments, the mass media, labor, and the large public sector, and controlled the licensing of new political parties, newspapers, and private organizations to such an extent that, as a practical matter, citizens did not have a meaningful ability to change their government.

In 1999, President Hosni Mubarak was elected unopposed to a fourth 6-year term in a national referendum. According to official results, he received 94 percent of the vote. Mubarak had been previously nominated by the People's Assembly. Under the Constitution, the electorate is not presented with a choice among competing presidential candidates. In October, political activists and opposition political party members called for constitutional revisions to change from referendum to multiple-candidate presidential elections and term limits. On December 12, 300 activists from the Kifaya (Enough) movement staged a protest against President Mubarak running for a fifth term in office. There was little government interference (*see* Section 2.b.).

Despite the overall improvement in the 2000 electoral process (as compared to the 1995 parliamentary elections), there still were problems affecting the fairness of the 2000 parliamentary elections. Preceding the elections, the Government arrested thousands of MB members on charges of belonging to an illegal organization. Most observers believed that the Government was seeking to undermine the MB's participation in the People's Assembly and professional syndicate elections through intimidation.

The People's Assembly debated government proposals, and members exercised their authority to call cabinet ministers to explain policy. The executive initiated almost all legislation. The Assembly exercised limited influence in the areas of security and foreign policy, and retained little oversight of the MOI's use of Emergency Law powers. Many executive branch initiatives and policies were carried out by regulation through ministerial decree without legislative oversight. Individual voting records were not published, and citizens had no independent method of checking a member's voting record.

The Shura Council, the upper house of Parliament, has 264 seats. Two-thirds of the members were elected and one-third were appointed by the President. In 2001, President Mubarak appointed 45 members to the Shura Council, including 8 women and 4 Christians.

In May and June, Shura Council elections resulted in the NDP winning 70 of 88 open seats. Independents won 17 seats. One of the independents, from Giza, is widely known to be a member of the officially banned MB. The opposition Tagammu (Grouping) Party won a solitary Shura seat.

There were 18 recognized opposition parties, not all of which were active.

The Political Parties Committee (PPC) approves applications by prospective parties and may withdraw recognition from existing parties. The Labor Party, which lost recognition in 2000, remained suspended at year's end (*see* Section 2.a.). During the September National Democratic Party Conference, the party leadership announced a plan to seek People's Assembly approval in November to relax the political party registration process. By year's end, the PPC had approved two new parties, including the Al-Ghad (Tomorrow) Party.

In addition, during the year, a variety of other aspirant political parties sought legal recognition from the courts or the PPC. The PPC rejected the Wasat (Middle) Party on the grounds that it illegally sought to establish a party with an Islamic basis. The PPC rejected the Karama (Dignity) Party on the grounds that its platform was not sufficiently different from other existing parties. By year's end, the International Peace Party and the Nationalist Party had also been denied. The Egypt Motherland, the Democratic Wafd, and the Progressive Arab parties' applications remained pending.

On June 2, the Abdeen Appeals Court placed the Ahrar (Liberal) Party and its 18 publications under judicial sequestration and appointed a custodian to oversee the financial and administrative functions of the party. Since 1998, 13 members have competed for the chairmanship, with 6 holding general conferences and claiming to have been legitimately elected. The PPC did not recognize any of the results. An appeal against the sequestration was pending at year's end.

The law prohibits political parties based on religion, and the MB remained an illegal organization; however, MB members openly and publicly spoke their views, although they did not explicitly identify themselves as members of the organization. They remained subject to government pressure (*see* Section 1.d.). Seventeen candidates affiliated with the MB were elected to the People's Assembly as independents in 2000. One of the 17 was unseated in 2003, when Gamal Heshmat lost a by-election. There were reports of heavy-handed police interference on polling day in favor of his opponent.

There were 11 women in the 454-seat People's Assembly. Two women served among the 32 ministers in the Cabinet. In 2003, the Government appointed a female jurist to serve on the Supreme Constitutional Court. She became the first female citizen to serve on the bench.

There were 7 Christians in the 454-seat People's Assembly and 2 Christians in the 32-member Cabinet.

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

Government restrictions on NGO activities, including limits on organizations' ability to accept funding, continued to limit reporting on human rights abuses. Government officials were selectively cooperative and responsive to NGO views. Some human rights activists were briefly detained for questioning at international ports of entry (*see* Section 2.d.).

In 2002, the Government passed a law governing the regulation and operation of all NGOs operating in the country. The law and its subsequent implementing regulations drew criticism from local NGOs and international activists. Some charged that the law and regulations placed unduly burdensome restrictions on NGO operations. Of particular concern was a new provision in the law that granted the Minister of Social Affairs the authority to dissolve an NGO by decree, rather than requiring a court order.

In 2003, the Parliament passed legislation establishing the National Council for Human Rights (NCHR), which became operational early in the year. The Council is composed of 25 members and headed by a chairman and a deputy, who serve 3-year terms. The Council's mandate is to receive human rights complaints and request competent government authorities to investigate them, to consult with the Government on the development of legislation that promotes good human rights practices, to increase public awareness on human rights, to issue an annual report on human rights in the country, and coordinate and network with other entities focused on human rights.

Observers have complained about the Council's slow start and modest results achieved to date. At year's end, the Council had received budgetary support from the Government as well as the European Union. Reliable reports indicated that the NCHR received over 4,000 complaints. NCHR reported that it referred an unspecified number of the complaints that it deemed credible to relevant authorities, but by year's end had received replies on only 50 cases.

Public visibility of the NCHR's activities was generally low, but increased over the course of the year. In October, for example, Council Vice Chairman Dr. Kamal Abul Magd, after visiting Tora and Abu Zaabal prisons, suggested there had been some improvement in prison conditions, but stressed the Council's determination to seek guarantees against preventive detention. In December, NCHR publicly announced that it would urge the Government, in its annual report to be issued in early 2005, to abolish the Emergency Law, on the grounds that ordinary constitutional law is sufficient to meet the country's security requirements.

In June 2003, years after it first applied, the EOHR was officially registered. HRAAP, another established and credible human rights group, also successfully registered. At least three human rights groups remained unable to operate during the year due to 2003 government decisions to deny their registration for obscure "security reasons." The status of some others was pending at year's end (*see* Section 2.b.).

In November 2003, the Arab Program for Human Rights Activists and the Word Center for Human Rights announced the rejection by the Ministry of Social Affairs of the Word Center's application for NGO status, citing "security objections." The Ministry also contended that the Center is a group based on religion and therefore not eligible for NGO status under the NGO Law (Law 84/02). The Word Center previously had applied for recognition as a "social company" by the Ministry of Foreign Trade and Industry. This option, which has been the resort of other NGO-like groups denied registration under the NGO law, can afford basic legal recognition. The Word Center's "social company" application was accepted in 1996; and the Center operated without restriction. The Word Center has filed suit against the Ministry of Social Affairs for recognition as an NGO and its case was pending at year's end.

EOHR and other groups obtained limited cooperation of government officials in visiting some prisons in their capacity as legal counsel, but not as human rights observers. They received funding from foreign human rights organizations.

During the year, the Government permitted the Cairo Institute for Human Rights Studies (CIHR) and other human rights organizations, including HRAAP, EOHR, and the Arab Center for Independence of the Judiciary, to hold and participate in international conferences.

The Government at times cooperated with international organizations; however, according to the delegate to the 2003 session of the U.N. Committee Against Torture, the Government had not agreed to a requested visit by the UNCHR Special Rapporteur on Torture because of an incompatibility of timetables (*see* Section 1.c.).

On July 25, inspectors from the Ministry of Health visited the premises of the El Nadim Center for the Rehabilitation of the Victims of Torture. This inspection visit provoked domestic and international concerns that the Government was harassing this human rights organization. (The El Nadim Center was not registered as an NGO with the Ministry of Social Affairs but was registered as a medical clinic, and thus falls under Ministry of Health jurisdiction.) The inspectors confiscated equipment and personal papers of doctors and well as patients, and soon after the inspection, one volunteer doctor at the Center was transferred from his position as the Director of the Airport Hospital for Mental Health to a department at the Khanka Hospital. El Nadim lodged a formal complaint with the Office of the Public Pros-

ecutor, and HRW addressed a letter to President Mubarak requesting his immediate intervention to stop the harassment. By late September, the Ministry of Health had halted its inquiry, and the Nadim Center was proceeding with its work.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equality of the sexes and equal treatment of non-Muslims; however, aspects of the law and many traditional practices discriminated against women and religious minorities.

Women.—The law does not prohibit spousal abuse; however, provisions of law relating to assault in general are applied. Domestic violence against women was a significant problem and was reflected in press accounts of specific incidents. In 2003, the Center for Egyptian Women's Legal Affairs conducted a survey of women, based in part on an assessment of crime reports in the vernacular press over a 6-month period, which estimated that 67 percent of women in urban areas and 30 percent in rural areas had been involved in some form of domestic violence at least once between 2002 and 2003. Among those who had been beaten, less than half had ever sought help. Due to the value attached to privacy in the country's traditional society, abuse within the family rarely was discussed publicly. Spousal abuse is grounds for a divorce; however, the law requires the plaintiff to produce eyewitnesses, a difficult condition to meet. Several NGOs offered counseling, legal aid, and other services to women who were victims of domestic violence. Activists believed that in general the police and the judiciary considered the "integrity of the family" more important than the well being of the woman. The Ministry of Insurance and Social Affairs operated more than 150 family counseling bureaus nationwide, which provided legal and medical services.

The National Council for Women (NCW) proposed and advocated policies that promoted women's empowerment and also designed development programs that benefit women. The Office of the National Ombudsman for Women provided assistance to women facing discrimination in employment and housing, domestic violence, sexual assault, and child custody disputes.

The law prohibits non-spousal rape; however, spousal rape is not illegal. The Government prosecuted rapists, and punishment for rape ranges from 3 years to life imprisonment. Although reliable statistics regarding rape were not available, activists believed that it was not uncommon, despite strong social disapproval. If a rapist is convicted of abducting his victim, he is subject to execution.

The law does not specifically address "honor" crimes (violent assaults by a male against a female, usually a family member, with intent to kill because of perceived lack of chastity). In practice, the courts sentenced perpetrators of such crimes to lesser punishments than those convicted in other cases of murder. There were no reliable statistics regarding the extent of honor killings; however, it was believed that they were not common.

FGM remained a serious, widespread problem, despite the Government's attempts to eliminate the practice and NGO efforts to combat it. Traditional and family pressures remained strong. A study conducted in 2000 estimated 97 percent of women who have ever been married had undergone FGM. The Government supported efforts to educate the public about FGM; however, illiteracy impeded some women from distinguishing between the deep-rooted tradition of FGM and religious practices. Moreover, many citizens believed that FGM was an important part of maintaining female chastity, and the practice was supported by some Muslim religious authorities and Islamist political activists. FGM was equally prevalent among Muslims and Christians.

Prostitution and sex tourism are illegal but continued to occur, particularly in Cairo and Alexandria.

Sexual harassment is not prohibited specifically by law. There were no statistics available regarding its prevalence.

The law provides for equality of the sexes; however, aspects of the law and many traditional practices discriminated against women. By law, unmarried women under the age of 21 must have permission from their fathers to obtain passports and to travel. Married women do not require such permission, but police sometimes did not apply the law consistently. A woman's testimony is equal to that of a man's in court.

There is no legal prohibition against a woman serving as a judge. In February, Counselor Tahany al-Gabbani was appointed to the Supreme Constitutional Court, the first, and only, female citizen to be appointed to the bench. At year's end, the Court of Cassation still was examining the cases of two female attorneys, Fatma Lashin and Amany Talaat, who challenged the Government's refusal to appoint them as public prosecutors. As of October, their challenge was still pending.

On September 5, the Minister of Awqaf (Religious Endowments) for the first time appointed a woman to the position of General Manager at the Waqf Authority.

Laws affecting marriage and personal status generally corresponded to an individual's religion. Article 20 of the Procedural Personal Status Law of 2000 provides for khul' divorce, which allows a Muslim woman to obtain a divorce without her husband's consent, provided that she is willing to forego all of her financial rights, including alimony, dowry, and other benefits. However, in practice, some judges have not applied the law accurately or fairly, causing lengthy bureaucratic delays for the thousands of women who have filed for khul' divorce. Many women have also complained that after being granted khul', the required child alimony is not paid.

The Coptic Orthodox Church permits divorce only in specific circumstances, such as adultery or conversion of one spouse to another religion.

Under Islamic law, non-Muslim males must convert to Islam to marry Muslim women, but non-Muslim women need not convert to marry Muslim men. Muslim female heirs receive half the amount of a male heir's inheritance, while Christian widows of Muslims have no inheritance rights. A sole female heir receives half her parents' estate; the balance goes to designated male relatives. A sole male heir inherits all of his parents' property. Male Muslim heirs face strong social pressure to provide for all family members who require assistance; however, in practice this assistance was not always provided.

Labor laws provide for equal rates of pay for equal work for men and women in the public sector. According to government figures from 2003, women constituted 17 percent of private business owners and occupied 25 percent of the managerial positions in the four major national banks. Educated women had employment opportunities, but social pressure against women pursuing a career was strong. Women's rights advocates claimed that Islamist influence inhibited further gains. Women's rights advocates also pointed to other discriminatory traditional or cultural attitudes and practices, such as FGM and the traditional male relative's role in enforcing chastity.

A number of active women's rights groups worked to reform family law, educate women on their legal rights, promote literacy, and combat FGM.

Children.—The Government remained committed to the protection of children's welfare; however, in practice, the Government made little progress in eliminating FGM, affording rights to children with foreign fathers, and helping street children.

The Government provided public education, which is compulsory for the first 9 academic years (typically until the age of 15). The Government treated boys and girls equally at all levels of education. The Education Minister asserted that 98 percent of citizen children were enrolled in compulsory education through grade nine. Approximately 30 percent of citizen students pursued studies at the post-secondary level.

The Government provided medical care for all children, regardless of gender.

The Child Law provides for privileges, protection, and care for children in general. Six of the law's 144 articles set rules protective of working children (*see* Section 6.d.).

In May 2003, the Suggestions and Complaints Committee of the People's Assembly approved a draft law that would allocate special holding cells for minors at police stations. The proposal had not been adopted by the entire Parliament at year's end.

Children with foreign fathers were not considered citizens and therefore could not attend public school or state universities. They were also barred from certain professional schools and could not work without meeting foreign residency requirements and obtaining work permits. There were an estimated 400,000 such children in the country.

FGM remained a serious problem and was widely performed (*see* Section 5, Women).

During the year, the country's National Council of Childhood and Motherhood (NCCM), a government organ, developed a national plan to increase educational opportunities for girls, to combat the worst forms of child labor (in collaboration with the ILO), and to implement a reproductive health awareness program for public schools. At year's end, implementation was underway.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, other portions of the criminal code may be used to prosecute traffickers. There were anecdotal and press reports of trafficking of persons from sub Saharan Africa and Eastern Europe through the country to Europe and Israel. There have been press reports about foreigners trying to cross over to Israel seeking employment there. It is difficult to determine with precision how many of the aliens smuggled through the country were actually being trafficked and how many were voluntary economic migrants. The Government aggressively patrolled its borders to prevent alien smuggling, but geography and resource limitations precluded total

success. Government officials participated in international conferences on combating trafficking in persons.

Persons With Disabilities.—There are no laws specifically prohibiting discrimination against persons with physical or mental disabilities, but the Government made serious efforts to address their rights. It worked closely with U.N. agencies and other international aid donors to design job-training programs for persons with disabilities. The Government also sought to increase the public's awareness of the capabilities of persons with disabilities in television programming, the print media, and educational material in public schools. There were approximately 5.7 million persons with disabilities, of whom 1.5 million were disabled severely.

The law provides that all businesses must designate 5 percent of their jobs for persons with disabilities who are exempt from normal literacy requirements. Although there was no legislation mandating access to public accommodations and transportation, persons with disabilities may ride government-owned mass transit buses free of charge, are given priority in obtaining telephones, and receive reductions on customs duties for private vehicles. A number of NGOs were active in efforts to train and assist persons with disabilities.

Other Societal Abuses and Discrimination.—In February 2003, a court rejected the appeal of foreign national Wissam Toufic Abyad, who had been convicted of "habitual debauchery" after arranging to meet a police informant posing as a homosexual man on an internet site. Abyad, serving a 15-month sentence, was unable to get his case heard by the Court of Cassation. He was released in May.

In February 2003, a Court of Appeal in Agouza, Cairo upheld the 3-year sentences of 11 allegedly homosexual men convicted of "habitual debauchery." A twelfth defendant was tried in juvenile court and later sentenced to 2 years' imprisonment. Lawyers for the 12 appealed the case to the Court of Cassation, but no court hearing date had been set, and the 12 remained in prison during the year.

Individuals suspected of homosexual activity and arrested on "debauchery" charges regularly reported being subjected to humiliation and abuse while in custody.

In March, the HRW Executive Director visited the country to unveil the new report "In a Time of Torture," which focused on harassment and abuse of alleged homosexuals.

During the year, there were no reports of wide scale Internet entrapment of homosexuals.

Section 6. Worker Rights

a. The Right of Association.—There are no legal obstacles to establishing private sector unions, although such unions were uncommon. Workers may join trade unions, but were not required to do so. A union local or workers' committee may be formed if 50 employees express a desire to organize. Most union members, about one-quarter of the labor force, were employed by state owned enterprises. Unionization decreased in the past several years as a result of early retirement plans in public sector enterprises and the privatization of many of these enterprises.

There were 23 trade unions, all required to belong to the Egyptian Trade Union Federation (ETUF), the sole legally recognized labor federation; however, requiring all trade unions to belong to a single federation infringes on freedom of association. The ETUF controlled the nomination and election procedures for trade union officers and permitted public authorities to intervene in union financial activities. The Government showed no sign that it intended to accept the establishment of more than one federation. ETUF officials had close relations with the ruling NDP, and some were members of the People's Assembly or the Shura Council. They spoke on behalf of worker concerns, and public confrontations between the ETUF and the Government were rare.

Some unions within the ETUF were affiliated with international trade union organizations. Others were in the process of becoming affiliated. The law does not permit anti-union discrimination. There were no reports of attempted discrimination, nor were there reports of attempts to enforce this protection.

b. The Right to Organize and Bargain Collectively.—The 2003 Labor Law (Law 12) calls for the establishment of a labor consultative council, including representatives from the Government, employers, and workers associations. The council, in working with other labor experts, addresses tripartite issues and problems and reviews labor-related domestic and international legislation; however, the council did not meet during the year. The law provides for collective bargaining, allowing for tripartite negotiations to improve labor terms and conditions and resolve disputes between workers and employers. Collective negotiation may be set in motion by any

of the concerned parties without the consent of other parties involved with the assistance of the concerned administrative authority.

The Labor Law also established special Pentagonal Committees composed of two judges and representatives from the Ministry of Manpower and Migration (MOMM), the ETUF, and employers. The Labor Law provides these committees with judicial powers to adjudicate labor disputes arising from the law's application. Decisions by these committees, which are intended to serve in place of the courts of first resort, may be appealed through the regular appeals process. During the year, the Pentagonal Committees issued more than 200 verdicts in labor disputes.

The MOMM established a unit in 2003 for collective negotiations and for monitoring the implementation of collective agreements. The Government sets wages, benefits, and job classifications for public sector and government employees, and the private sector sets compensations for its employees in accordance with the Government's laws regarding minimum wages.

The Labor Law permits strikes, but only after an extended negotiation process. There were at least 15 strikes during the year. Wildcat strikes are prohibited. Peaceful strikes are allowed, provided they are announced in advance and organized by the trade union to defend vocational, economic, and social interests. To call a strike, the trade union must notify the employer and concerned administrative authority at least 10 days in advance of the strike date, giving the reason for the strike and the date it would commence. Prior to this formal notification, the strike action must be approved by a two-thirds majority of the ETUF Board of Directors. This advance notification requirement effectively eliminates wildcat strikes. Strikes are prohibited by law during the validity of collective bargaining agreements and during the mediation and arbitration process. Strikes are also prohibited in strategic or vital entities in which the interruption of work could result in a disturbance of national security or basic services. The Labor Law also regulates litigation related to collective bargaining and allows collective bargaining in what are identified as strategic and vital establishments.

Firms, apart from large ones in the private sector, generally did not adhere to government-mandated standards. Although they are required to observe some government practices, such as the minimum wage, social security insurance, and official holidays, firms often did not adhere to government practice in non-binding matters, including award of the annual Labor Day bonus.

Labor law and practice are the same in the six existing export-processing zones (EPZs) as in the rest of the country. A Special Economic Zones (SEZ) law was issued in 2002 laying the legal foundation for the establishment of SEZs that will be export-oriented. According to the SEZ law, rules governing labor in the SEZs will be more flexible, since the authority regulating the SEZ can tailor contracts in accordance with business needs while adhering to the general requirements of the labor law. At year's end, the Ministry of Investment was proceeding to establish an SEZ in East Port Said.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor. The 2003 Labor Law and the Child Law do not specifically prohibit forced and compulsory labor by children. Such practices, including by children, were reportedly rare.

d. Prohibition of Child Labor and Minimum Age for Employment.—Local trade unions reported that the Ministry of Labor adequately enforced labor laws in state-owned enterprises, but enforcement in the private sector, especially in the informal sector, was lax. Employers continued to abuse, overwork, and generally endanger many working children. Changes in the Child Labor Law have not significantly improved conditions due to lax enforcement by the Government. Enforcement remained spotty, and in cases where offenders have been prosecuted, the fines imposed were often small (e.g., 20 LE, or $3.25) and thus had questionable deterrent effect. Regulations proposed in 2003 under the revised labor law sharply increased the minimum fines in child labor cases to LE 500 ($81). The Government has developed programs that emphasize prevention and include employer, parent, and child counseling.

The law limits the type and conditions of work that children under the age of 18 may perform legally. In nonagricultural work, the minimum age for employment is 14 or the age of completing basic education (15), whichever is higher. Provincial governors, with the approval of the Minister of Education, may authorize seasonal work for children between the ages of 12 and 14, provided that duties are not hazardous and do not interfere with schooling.

Pre-employment training for children under the age of 12 is prohibited. Children are prohibited from working for more than 6 hours per day, and one or more breaks totaling at least 1 hour must be included. Several other restrictions apply to chil-

dren: they may not work overtime, during their weekly day(s) off, between 7 p.m. and 7 a.m., or on official holidays. Children are also prohibited from working for more than 4 hours continuously.

Statistical information regarding the number of working children was difficult to obtain and often outdated. NGOs estimated that up to 1.5 million children worked. Government studies indicated that the concentration of working children was higher in rural than in urban areas. Approximately 78 percent of working children were in the agricultural sector. However, children also worked in light industry.

e. Acceptable Conditions of Work.—During the year, the minimum wage for government and public sector employees was determined by the National Council of Wages and differed among sectors. The law stipulates that 48 hours is the maximum number of hours that may be worked in 1 week. Overtime for hours worked beyond 36 per week is payable at the rate of 25 percent extra for daylight hours and 50 percent extra for nighttime hours. The nationwide minimum wage generally was enforced effectively for larger private companies; however, smaller firms did not always pay the minimum wage. The minimum wage frequently did not provide a decent standard of living for a worker and family; however, base pay commonly was supplemented by a complex system of fringe benefits and bonuses that may double or triple a worker's take-home pay and provide a decent standard of living.

The Ministry of Labor sets worker health and safety standards, which also apply in the EPZs; however, enforcement and inspections were uneven. A council for occupational health and safety was established by the Labor Law to address health and safety issues nationwide. During the year, ETUF called for development of a national health insurance program prior to proposed changes in the health insurance law.

The new labor law prohibits employers from maintaining hazardous working conditions, and workers have the right to remove themselves from hazardous conditions without risking loss of employment.

Starting on June 11, employees at the Ora-Egypt asbestos products firm engaged in strike actions. The strikers said that 46 employees had suffered from cancer as a result of unsafe working conditions. On September 21, the Government closed Ora-Egypt.

In 2003, the Minister of Manpower said that the total number of foreign workers holding work and residence permits was 18,177, not including Sudanese, Palestinians, and foreigners married to citizens. Unofficial estimates of undocumented workers were as high as 116,000. Foreign workers with the required permits enjoyed legal protections.

There were occasional reports of employer abuse of undocumented workers, especially domestic workers. A few employers were prosecuted during the year for abuse of domestic workers, but many claims of abuse were unsubstantiated because undocumented workers were reluctant to make their identities public.

IRAN

The Islamic Republic of Iran[1] is a constitutional, theocratic republic in which Shi'a Muslim clergy dominate the key power structures. Article Four of the Constitution states that "All laws and regulations . . . shall be based on Islamic principles." Government legitimacy is based on the twin pillars of popular sovereignty (Article Six) and the rule of the Supreme Jurisconsulate (Article Five). The unelected Supreme Leader of the Islamic Revolution, Ayatollah Ali Khamene'i, dominates a tricameral division of power among legislative, executive, and judicial branches. Khamene'i directly controls the armed forces and exercises indirect control over the internal security forces, the judiciary, and other key institutions. The executive branch was headed by President Mohammad Khatami, who won a second 4-year term in June 2001, with 77 percent of the popular vote in a multiparty election. The legislative branch featured a popularly elected 290-seat Islamic Consultative Assembly, Majlis, which develops and passes legislation, and an unelected 12-member Council of Guardians, which reviews all legislation passed by the Majlis for adherence to Islamic and constitutional principles and also has the duty of screening Majlis candidates for eligibility. Conservative candidates won a majority of seats in the February Seventh Majlis election that was widely perceived as neither free nor fair, due to the Council of Guardians' exclusion of thousands of qualified candidates.

[1] The United States does not have an embassy in Iran. This report draws heavily on non-U.S. Government sources.

The 34-member Expediency Council is empowered to resolve legislative impasses between the Council of Guardians and the Majlis. The Constitution provides that "the judiciary is an independent power"; however, the judicial branch is widely perceived as both corrupt and heavily biased towards conservative elements within the society and against reformist forces.

Several agencies share responsibility for law enforcement and maintenance of order, including the Ministry of Intelligence and Security, the Law Enforcement Forces under the Ministry of Interior, and the Islamic Revolutionary Guards Corps, a military force established after the revolution. A paramilitary volunteer force known as the Basiji, and various gangs of men known as the Ansar-e Hezbollah (Helpers of the Party of God), or "plain clothes," aligned with extreme conservative members of the leadership, acted as vigilantes. Civilian authorities did not fully maintain effective control of the security forces, and there were instances in which elements of the security forces acted independently of government authority. The regular and the paramilitary security forces both committed numerous, serious human rights abuses.

The mixed economy depends on oil and gas for 80 percent of its export earnings. The population was more than 69 million. All large-scale industry is publicly owned and state-administered. Large parastatal charitable foundations ("bonyads"), with strong connections to the clerical regime, controlled as much as a third of the country's economy and exercised considerable influence. The Government heavily subsidized basic foodstuffs and energy costs. Government mismanagement and corruption negatively affected economic performance. The official unemployment rate was approximately 11 percent, although other estimates were higher. Estimated inflation was 15 percent with economic growth approximately 6.5 percent during the year.

The Government's poor human rights record worsened, and it continued to commit numerous, serious abuses. The right of citizens to change their government was restricted significantly. Continuing serious abuses included: summary executions; disappearances; torture and other degrading treatment, reportedly including severe punishments such as amputations and flogging; poor prison conditions; arbitrary arrest and detention; lack of habeas corpus or access to counsel; and prolonged and incommunicado detention. Citizens often did not receive due process or fair trials. The Government infringed on citizens' privacy rights and restricted freedom of speech, press, assembly, association, and religion.

An intense political struggle continued during the early part of the year between a broad popular movement favoring greater liberalization in government policies, particularly in the area of human rights, and certain hard-line elements within the Government and society that viewed such reforms as a threat to the survival of the Islamic Republic. In many cases, this struggle was played out within the Government, with reformists and hard-liners squaring off in divisive internal debates. As in the past, reformist members of Majlis were harassed, prosecuted, and threatened with jail for statements made under parliamentary immunity. In screening for the February Seventh Majlis elections, the Guardian Council ruled approximately 2,500 of the over 8,000 prospective candidates ineligible to run, including 85 sitting reformist deputies; this was one factor leading to conservatives winning a majority of seats.

The Government restricted the work of human rights groups. Violence and legal and societal discrimination against women were problems. The Government discriminated against minorities and severely restricted workers' rights, including freedom of association and the right to organize and bargain collectively. Child labor persisted. Vigilante groups, with strong ties to certain members of the Government, enforced their interpretation of appropriate social behavior through intimidation and violence. There were reports of trafficking in persons.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were reports of political killings. The Government was responsible for numerous killings during the year, including executions following trials that lacked due process.

The law criminalized dissent and applied the death penalty to offenses such as "attempts against the security of the State, outrage against high-ranking officials, and insults against the memory of Imam Khomeini and against the Supreme Leader of the Islamic Republic." Citizens continued to be tried and sentenced to death in the absence of sufficient procedural safeguards.

Exiles and human rights monitors alleged that many of those supposedly executed for criminal offenses in the past, such as narcotics trafficking, actually were political

dissidents. Supporters of outlawed political groups, or in the case of the Mujahedin-e Khalq, a terrorist organization, were believed to constitute a number of those executed each year.

In January, security forces killed four persons and injured many others when they attacked striking copper factory workers in the Khatunabad village near Shahr-i Babak (*see* Section 6.b.).

In February, security forces killed seven persons in post-Majlis election violence in the towns of Andimeshk and Izeh in Khuzestan Province and the town of Firuzabad in the Fars Province.

In August, Iranian media reported that 16-year-old Ateqeh Rajabi was hanged in public for charges reportedly involving her "acts incompatible with chastity." Rajabi was not believed to be mentally competent; she had no access to a lawyer. Her sentence was reviewed and upheld by the Supreme Court. An unnamed man arrested with her was given 100 lashes and released.

In July 2003, an Iranian-Canadian photographer, Zahra Kazemi, died in custody after being arrested for taking photographs at Evin prison in Tehran. After initially claiming that she had died as a result of a stroke, the Government subsequently admitted that she died as a result of a blow to the head and charged individuals involved in her detention. The Government denied Canada's request, based on her son's statement, that Kazemi's remains be sent to Canada for further autopsy and burial. In July, a court acquitted an Intelligence Ministry official accused of her death, and the Government has taken no subsequent investigative or legal action to resolve ambiguities surrounding her death (*see* Section 4).

Two political activists associated with the outlawed Komala party, Sassan al-Kanaan and Mohammad Golabi, were executed in February and March 2003. Golabi reportedly was tortured while in detention. The opposition Democratic Party of Iranian Kurdistan (KDPI) alleged that the Government executed party member Jalil Zewal in December 2003, after 9 years in prison during which he reportedly was tortured. KDPI member Ramin Sharifi was also executed in December 2003 after his arrest in July 2003. KDPI reported that hard-line vigilante groups killed at least seven other Kurdish civilians during 2003.

The 1998 murders of prominent political activists Darioush and Parvaneh Forouhar, writers Mohammad Mokhtari and Mohammad Pouyandeh, and the disappearance of political activist Pirouz Davani continued to cause controversy about what is perceived to be the Government's cover-up of involvement by high-level officials. Prominent investigative journalist Akbar Ganji, who was arrested in 2000 and sentenced to 6 years in prison for his reporting on the case, remained in prison (*see* Sections 1.d. and 1.e.). In 2001, the Special Representative for Iran of the Commission on Human Rights (UNSR) also reported claims that there were more than 80 killings or disappearances over a 10-year period as part of a wider campaign to silence dissent. Members of religious minority groups, including the Baha'is, evangelical Christians, and Sunni clerics were killed in recent years, allegedly by government agents or directly at the hands of authorities.

b. Disappearance.—Little reliable information was available regarding the number of disappearances during the year.

The Government announced that approximately 4,000 persons—both protesters and vigilantes—were arrested in connection with pro-reform protests in June 2003. As of December, approximately 130 still were detained.

No further information was known regarding the disappearances of Baha'i, Kurdish, and Jewish Iranian prisoners cited in previous Human Rights Reports dating from as early as the fall of the Shah in 1979.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution forbids the use of torture, as does the Law on Respect of Lawful Liberties and Protection of Citizenship Rights adopted in May; however, there were numerous credible reports that security forces and prison personnel continued to torture detainees and prisoners. Some prison facilities, including Tehran's Evin prison, were notorious for the cruel and prolonged acts of torture inflicted upon political opponents of the Government. Additionally, in recent years, government officials have inflicted severe prisoner abuse and torture in a series of "unofficial" secret prisons and detention centers outside the national prison system. Common methods included prolonged solitary confinement with sensory deprivation, beatings, long confinement in contorted positions, kicking detainees with military boots, hanging detainees by the arms and legs, threats of execution if individuals refused to confess, burning with cigarettes, sleep deprivation, and severe and repeated beatings with cables or other instruments on the back and on the soles of the feet. Prisoners also reported beatings about the ears, inducing partial or complete deafness, and punching in the eyes, leading to partial or complete blindness.

On February 28, Judiciary Head Ayatollah Shahroudi issued a directive protecting the rights of the accused and, among other points, instructing police, judicial officials, and security agents to refrain from physical abuse when interrogating suspects. On May 2, the Majlis passed a law based on this 15-point directive in the form of the Bill on Legitimate Liberties and Civil Rights, which the Council of Guardians approved shortly thereafter. However, there is much anecdotal evidence that this law was ignored routinely in practice.

In August, credible international and local NGOs reported the case of a prisoner in the province of Khuzistan who had to have his hands amputated because prison officials had left him hanging by the wrists and then forgot about him.

In August 2003, the Council of Guardians rejected a bill on accession to the U.N. Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. The Majlis amended the bill in late December 2003, reportedly addressing Council of Guardians concerns over the monetary costs of joining the convention, but the council still rejected the revised bill. The Council of Guardians also rejected in mid-2002 a bill passed by the Majlis to end torture and forced confessions.

In July 2002, in an effort to combat "un-Islamic behavior" and social corruption among the young, the Government formed a new "morality" force, referred to merely as "special units" (yegan ha-ye vizhe), to complement the existing morality police, "Enjoining the Good and Prohibiting the Forbidden" (Amr be Ma'ruf va Nahi az Monkar). The new force was to assist in enforcing the Islamic Republic's strict rules of moral behavior. Credible press reports indicated that members of this force chased and beat persons in the streets for offenses such as listening to music or, in the case of women, wearing makeup or clothing regarded as insufficiently modest (*see* Section 1.f.). While not uniformly enforced, in July, morality police made several raids in shopping centers and shops in northern Tehran, rounding up young women who they determined to be violating the Islamic dress code and confiscating articles of clothing considered immodest.

In February, Mohsen Mofidi reportedly received 80 lashes following a 4-month prison sentence having been convicted of consuming alcohol, owning a satellite dish, and aiding his sister's "corruption" in associating with male companions. He died in a hospital in Tehran shortly after his release.

In March 2003, activist Siamak Pourzand was re-imprisoned after his provisional release in November 2002. After his arrest in 2001, Pourzand was tried in March 2002 behind closed doors and sentenced to 11 years in prison for "undermining state security through his links with monarchists and counter-revolutionaries." Press reports said that he had confessed to his crimes at his trial, but his family claimed that the confession was extracted under duress. Pourzand suffered severe health problems while held incommunicado, reportedly including a heart attack, and was allegedly denied proper medical treatment. As of December, Siamak Pourzand was on leave from prison for medical treatment, his condition a direct result of physical, emotional, and mental abuse during 2 years of imprisonment (over 12 months of which was in solitary confinement). Despite critical health problems, the Government did not allow him to leave the country for treatment.

In April 2003, Former Deputy Prime Minister and longtime political dissident, Abbas Amir-Entezam was re-imprisoned, after his release in 2002 for medical reasons. Amir-Entezam was reportedly incarcerated for calling for a referendum on whether the country should remain under clerical rule during a speech at Tehran University. He was reportedly a frequent victim of torture in prison resulting in numerous medical problems. He reported having been taken on numerous occasions before a firing squad (*see* Section 1.e.). During the year, he was released on medical leave until late November, due to the Government's inability to treat his medical conditions in prison. As of December, he was receiving medical treatment at his home while recovering from back surgery, and his medical leave was extended until early January 2005.

In July 2003, an Iranian-Canadian photographer, Zahra Kazemi, died in custody as a result of a blow to the head (*see* Section 1.a.).

In November 2003, four men were reportedly sentenced to death by stoning for involvement in kidnapping and rape. In December 2002, the Government officially suspended the practices of amputation and lapidation or stoning—a form of capital punishment for adultery and other crimes, although the law has not been rescinded. Amnesty International (AI) reported at least nine cases of amputation since 2002 and four cases of execution of children.

In mid-September, the Public Relations head of Hamedan Province's Department of Prisons announced that the fingers of a robber were cut off on the order of the public prosecutor's office. In mid-October, an Ahvaz judge upheld the sentence to amputate a young man's right hand, with the sentence subsequently implemented.

On November 11, in Sanandaj, a 14-year-old Kurdish boy died after having received 85 lashes based on a judge's ruling finding him guilty of breaking his fast during the month of Ramadan.

Prison conditions in the country were poor. Many prisoners were held in solitary confinement or denied adequate food or medical care to force confessions. After its February 2003 visit, the U.N. Working Group on Arbitrary Detentions reported that "for the first time since its establishment, [the Working Group] has been confronted with a strategy of widespread use of solitary confinement for its own sake and not for traditional disciplinary purposes." The Working Group described Sector 209 of Evin Prison as a "prison within a prison," designed for the "systematic, large-scale use of absolute solitary confinement, frequently for long periods."

The 2001 report by the UNSR noted a significant increase in the prison population and reports of overcrowding and unrest. In July, the UK-based International Center for Prison Studies reported that 133,658 prisoners occupied facilities constructed to hold a maximum of 65,000 persons. In November, the Iran Prison Organization reported a prison population of 134,103.

The UNSR reported that much of the prisoner abuse occurred in unofficial detention centers run by unofficial intelligence services and the military. The UNSR further reported that the unofficial detention centers were to be brought under the control of the National Prison Organization (NPO) during 2001; however, November 2003 press reports indicated that a number of unofficial detention centers continued to operate outside NPO control. The U.N. Working Group on Arbitrary Detention raised this issue with the country's Article 90 Parliamentary Commission during its February 2003 visit, generating a commission inquiry that reportedly confirmed the existence of numerous unofficial prisons.

In a June study, Human Rights Watch (HRW) documented a number of unofficial prisons and detention centers such as "Prison 59" and "Amaken" an interrogation center where persons are held without charge, questioned intensively for prolonged periods, and physically abused and tortured during the process.

The Government generally has only granted prison access to the International Committee of the Red Cross (ICRC); however, it did permit visits to imprisoned dissidents by U.N. human rights officials during 2003 (*see* Section 4). U.N. Working Group on Arbitrary Detention officials visited Evin prison in Tehran—including sector 209, in which many political prisoners were believed held—as well as Esfahan and Shiraz prisons, the Shiraz military prison, and police stations in each city. The Working Group interviewed approximately 140 "ordinary" prisoners plus 14 out of a requested 45 inmates described as political prisoners and prisoners of conscience. The Working Group described the authorities' cooperation as "on the whole positive," although it noted problems with fulfillment of follow-up requests generated by the visit and disappointment over arrests carried out after the Group's departure. Following his November 2003 visit to the country, the UNSR for the Promotion and Protection of the Right to Freedom of Opinion and Expression noted that his delegation met with almost 40 dissidents, both in and out of prison.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, these practices remained common. In practice, there is no legal time limit for incommunicado detention nor any judicial means to determine the legality of detention. In the period immediately following detention or arrest, many detainees were held incommunicado and denied access to lawyers and family members. Suspects may be held for questioning in jails or in local Revolutionary Guard offices. There also are numerous detention centers not under the control of the NPO, reportedly run by "plainclothes" officers of various security and intelligence agencies, elements of the judiciary, and state-sponsored vigilante groups.

The security forces often did not inform family members of a prisoner's welfare and location. Authorities often denied visits by family members and legal counsel. In addition, families of executed prisoners did not always receive notification of the prisoners' deaths. Those who received such information reportedly were forced on occasion to pay the Government to retrieve the body of their relative.

Security forces often targeted family members of political prisoners for harassment. In April, a court sentenced student activist Payman Piran, detained since February on charges of acting against national security, contacting foreigners, disturbing public opinion, and behaving insultingly, to 10 years in prison. In July, security forces forcibly evicted retired teacher Mostafa Piran, father of Peyman Piran, and his family from their apartment, confiscated their goods, and sealed the apartment. They beat Mostafa Piran and then detained him in Evin Prison. He was not informed of any charges against him nor allowed to see a lawyer. Subsequently, family members who saw him said that he had been mistreated during lengthy interrogation sessions and badly bruised. Also in July, Simin Mohammadi and her fa-

ther Mohammad Mohammadi, sister and father respectively of jailed student activists Manuchehr and Akbar Mohammadi, were arrested, reportedly for "acts against state security." Simin was released after posting bail following 2 weeks' imprisonment in solitary confinement; her father also was released on bail after having had a heart attack in solitary confinement.

According to the media, in November, Mohammad Reza Aghapour, former editor-in-chief of the banned magazine, Asan, was arrested upon his return from London where he reportedly attended seminars on the circumstances of the country's Turkish population. At year's end, there was no information on whether Aghapour was imprisoned or if charges were brought against him.

According to the media, in September, authorities arrested and held for 11 days Soeed Matalebi, the father of Sinn Motalebi, a political opponent of the regime who helped to operate an Internet opposition website.

In January 2003, the Government released Ayatollah Hossein Ali Montazeri, amid reports of health problems after 5 years of house arrest. Montazeri was formerly the designated successor of the late Spiritual Leader, Ayatollah Khomeini, who subsequently became an outspoken critic of the Supreme Leader (*see* Section 2.a.). In recent years, the Government has used the practice of house arrest to restrict the movements and ability to communicate of senior Shi'a religious leaders whose views regarding political and governance issues were at variance with the ruling orthodoxy; however, there was no information on current practice.

In July 2003, the press credibly reported that Iranian-American academic Dariush Zahedi was detained during a private visit to the country and reportedly held in solitary confinement in Evin prison. Majlis officials noted that Zahedi was held on suspicion of espionage but, after a 40-day investigation, was cleared by the Ministry of Intelligence. However, Zahedi remained in detention after the case was transferred to the judiciary, reportedly at the intervention of Tehran's chief prosecutor. Zahedi was released on approximately $250,000 (200 million Tomans) bail in November 2003 and, although technically free to leave the country, is still subject to criminal prosecution. As of February, Zahedi had left the country; the charges against him were still pending.

In November 2003, security agents briefly arrested two sons of Ayatollah Hossein Ali Montazeri, the dissident cleric released from house arrest in January (*see* Section 1.d. above). The arrests reportedly were in response to the sons' attempts to refurbish a building purchased by the family for use as a teaching facility. The Qom mosque and Koranic school at which Montazeri formerly taught has remained closed since 1997, when comments by the cleric questioning the authority of the Supreme Leader sparked attacks on the school and his home by Ansar-e Hezbollah mobs.

In November 2003, student activist Ahmed Batebi met with the UNSR for the Promotion and Protection of the Right to Freedom of Opinion and Expression, while on medical leave from prison where he is serving a 15-year sentence for participating in the 1999 student demonstrations. He was re-arrested shortly afterward; however, he was temporarily released in late April, but he was re-incarcerated and, again, temporarily released on May 3. Subsequently, he was returned to prison, and his 10-year sentence remained in place.

AI reported that in October 2003, Arzhang Davoodi was arrested for assisting in making a television documentary criticizing the authorities. Reportedly, he was kept in solitary confinement for over 3 months and extensively beaten during the period. According to AI, he has not been charged and, although having paid bail in March, has not been released.

In July 2002, the Government permanently dissolved the Freedom Movement, the country's oldest opposition party, and sentenced over 30 of its members to jail terms ranging from 4 months to 10 years on charges of trying to overthrow the Islamic system. Other members were barred from political activity for up to 10 years and ordered to pay fines up to more than approximately $6,000 (currently 48 million tomans) (*see* Sections 2.b. and 3).

Numerous publishers, editors, and journalists (including those working on Internet sites) were either detained, jailed, and fined, or they were prohibited from publishing their writings during the year (*see* Section 2.a.).

Adherents of the Baha'i faith continued to face arbitrary arrest and detention. According to Baha'i sources, four Baha'is remained in prison for practicing their faith at year's end, one facing a life sentence, two facing sentences of 15 years, and the fourth a 4-year sentence. A small number of Baha'is were detained at any given time. Sources claimed that such arrests were carried out to "terrorize" the community and to disrupt the lives of its members. Others were arrested, charged, and then quickly released. However, the charges against them often were not dropped (*see* Section 2.c.).

During 2003, the Government continued to exchange with Iraq prisoners of war (POWs) and the remains of deceased fighters from the 1980–88 Iran-Iraq war. In March 2003, the Government said it released 888 Iraqi POWs in exchange for 351 Iranian prisoners that the Government claimed were not POWs, but religious pilgrims, university students, tour guides, farmers and villagers from the border regions, and border guards). In April and August, the Government claimed that it held no more Iraqi POWs.

e. Denial of Fair Public Trial.—The Constitution provides that the judiciary is "an independent power"; however, in practice the court system was subject to government and religious influence. It served as the principal vehicle of the Government to restrict freedom and reform in the society. U.N. representatives, including the UNSR, the U.N. Working Group on Arbitrary Detention, and independent human rights organizations noted the absence of procedural safeguards in criminal trials. Trials are supposed to be open to the public; however, frequently they are held in closed sessions without access to a lawyer; the right to appeal often is not honored.

There are several different court systems. The two most active are the traditional courts, which adjudicate civil and criminal offenses, and the Islamic Revolutionary Courts. The latter try offenses viewed as potentially threatening to the Islamic Republic, including threats to internal or external security, narcotics and economic crimes, and official corruption. A special clerical court examines alleged transgressions within the clerical establishment, and a military court investigates crimes committed in connection with military or security duties by members of the army, police, and the Revolutionary Guards. A press court hears complaints against publishers, editors, and writers in the media. The Supreme Court has limited review authority.

After the revolution, the judicial system was revised to conform to an Islamic canon based on the Koran, Sunna, and other Islamic sources. Article 157 provides that the Head of the Judiciary, currently Ayatollah Mahmoud Hashemi Shahrudi, shall be a cleric chosen by the Supreme Leader. The head of the Supreme Court and Prosecutor General also must be clerics. Women are barred from serving as judges.

Many aspects of the pre-revolutionary judicial system survived in the civil and criminal courts. For example, defendants have the right to a public trial, may choose their own lawyer, and have the right of appeal. Panels of judges adjudicate trials. There is no jury system in the civil and criminal courts. If post-revolutionary statutes did not address a situation, the Government advised judges to give precedence to their own knowledge and interpretation of Islamic law.

In its 2003 report, the U.N. Working Group on Arbitrary Detention noted failures of due process in the court system caused by the absence of a "culture of counsel" and the previous concentration of authority in the hands of a judge who prosecuted, investigated, and decides cases. The Working Group called for active involvement of counsel in cases, from the custody and investigation phase through the trial and appeals phases. The Working Group welcomed the December 2002 reinstatement of prosecution services, after a 7-year suspension, but noted that this reform had thus far had been applied unevenly, with the judge still having major investigative responsibilities in many jurisdictions.

Trials in the Revolutionary Courts, in which crimes against national security and other principal offenses are heard, were notorious for their disregard of international standards of fairness. Revolutionary Court judges were chosen in part based on their ideological commitment to the system. Pretrial detention often was prolonged, and defendants lacked access to attorneys. Indictments often lacked clarity and included undefined offenses such as "anti-revolutionary behavior," "moral corruption," and "siding with global arrogance." Defendants did not have the right to confront their accusers. Secret or summary trials of 5 minutes' duration occurred. Others were show trials that were intended merely to highlight a coerced public confession.

The legitimacy of the Special Clerical Court system continued to be a subject of debate. The clerical courts, which investigate offenses and crimes committed by clerics and which are overseen directly by the Supreme Leader, are not provided for in the Constitution and operated outside the domain of the judiciary. In particular, critics alleged that the clerical courts were used to prosecute clerics for expressing controversial ideas and for participating in activities outside the sphere of religion, such as journalism. The recommendations of the U.N. Working Group on Arbitrary Detention included a call to abolish both the Special Clerical Courts and the Revolutionary Courts, which were described as "responsible for many of the cases of arbitrary detention for crimes of opinion."

The President stated on April 28 that, "absolutely, we do have political prisoners and people who are in prison for their beliefs." No accurate estimates were available regarding the number of citizens imprisoned for their political beliefs. In November 2003, the UNSR for the Promotion and Protection of the Right to Freedom of Expression and Opinion estimated the number to be in the hundreds. The Government has arrested, convicted, and sentenced persons on questionable criminal charges, including drug trafficking, when their actual "offenses" were political. The Government has charged members of religious minorities with crimes such as "confronting the regime" and apostasy, and conducted trials in these cases in the same manner as threats to national security.

In December, a Tehran justice department official alleged that the Government tried and sentenced fugitive al-Qaeda members detained in the country. The Government did not identify those convicted, the verdicts, or their sentences.

In March 2002, after a trial behind closed doors but with his lawyer present, Nasser Zarafshan, the attorney representing the families of the victims of the 1998 extrajudicial killings of dissidents by intelligence ministry officials, was sentenced to 5 years in prison (2 years for disseminating state secrets and 3 years for the possession of firearms) and 70 lashes for the possession of alcohol. He was charged with leaking confidential information pertaining to the trial. HRW reported that he was also charged with "having weapons and alcohol at his law firm." Zarafshan was originally arrested in 2000 but released after a month pending trial. An appeals court upheld his conviction in July 2002; he was arrested and taken to Evin Prison in August 2002. In November 2003, the Supreme Court reportedly dismissed his appeal. According to the NGO PenCanada, in September, a group of prisoners in collusion with prison authorities reportedly attempted to kill Zarafshan. Opposition websites reported that Zarafshan participated in a July hunger strike to protest mistreatment of prisoners' families by government officials. Reportedly, since September 2003, prison authorities have given Zarafshan only one leave of 48 hours.

Several other human rights lawyers also reportedly were abused, among them Mohammad Dadkhah, who participated in the defense of members of the Iran Freedom Movement and is a founding member of the Iranian Center for Protection of Human Rights, and Abdol Fattah Soltani, who was reportedly charged for raising accusations of torture during the 2002 defense of a number of political prisoners. In 2002, Dadkhah was sentenced to 5 months in jail and banned from practicing law for 10 years; however, in November, he remained free and was practicing law. However, in October, the Government refused to issue him a passport. In 2002, Soltani was sentenced to 4 months in prison and barred from practicing law for 5 years. At year's end, he was not in jail but still precluded from practicing law. The U.N. Working Group on Arbitrary Detention included among its recommendations the need for guaranteeing the immunity of counsel in pleading cases as an essential element of the right to due process.

In November 2002, academic Hashem Aghajari was sentenced to death at a closed trial for blaspheming against Islam during a speech in Hamedan. In addition to the death sentence, he was sentenced to 74 lashes, exile to a remote desert location, 8 years in jail, and a ban on teaching for 10 years. In February 2003, the Supreme Court revoked his death sentence, but the case was sent back to the lower court for retrial. In June, the Government announced that the Supreme Court overturned his death sentence. As a result of a retrial in July, the sentence was reduced to 3 years in prison and 2 years suspended sentence in prison, in addition to 5 years "deprivation of social rights." Aghajari was released on bail on July 31 and has announced that he will challenge the court's decision to bar him from publishing articles and speaking in public.

Former Deputy Prime Minister, Abbas Amir-Entezam, was re-imprisoned in April 2003, after his release in 2002 for medical reasons. A longtime political dissident, Amir-Entezam has spent much of the past 24 years in prison. He reportedly was incarcerated for calling for a referendum on whether the country should remain under clerical rule (*see* Section 1.c.). During the year, he was freed on medical leave due to the Government's inability to treat his medical conditions in prison. As of December, he was receiving medical treatment at his home recovering from back surgery, and his medical leave was extended until early January 2005.

The trials in 2000 and 2001 of 13 Jewish citizens on charges related to espionage for Israel were marked by a lack of due process. Ten of the original 13 were sentenced to jail terms ranging from 4 to 13 years. The last five in prison were released in April 2003 (*see* Section 2.c.).

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution states that "reputation, life, property, (and) dwelling(s)" are protected from trespass except as "provided by law"; however, the Government infringed on

these rights. Security forces monitored the social activities of citizens, entered homes and offices, monitored telephone conversations, and opened mail without court authorization.

Vigilante violence included attacking young persons considered too "un-Islamic" in their dress or activities, invading private homes, abusing unmarried couples, and disrupting concerts or other forms of popular entertainment. Attackers targeted women whose clothing did not cover their hair and all parts of their body except the hands and face or those who wore makeup or nail polish. In October, in Rasht, Unit 110 of the Law Enforcement Forces, another police unit charged with maintaining Islamic propriety, arrested 8 girls and 12 boys dancing at a party. In Shiraz, in late October, over a 2-day period at least 150 people were arrested. Eyewitnesses said that dozens of individuals, mostly youths, were arrested on the streets for their "un-Islamic attire." A large number of persons reportedly were arrested for "acting as a nuisance." A young man was arrested for "eating in public" in the Islamic holy month of Ramadan according to friends accompanying him.

Authorities entered homes to remove television satellite dishes, or to disrupt private gatherings in which unmarried men and women socialized or where alcohol, mixed dancing, or other forbidden activities were offered or took place. There were also widespread reports that the homes and offices of reformist journalists were entered, searched, or ransacked by government agents in an attempt to intimidate. The government campaign against satellite dishes continued, although enforcement appeared to be arbitrary and sporadic, varying widely with the political climate and the individuals involved. Press reports from late 2003 noted that security authorities restarted periodic efforts to remove satellite dishes from Tehran homes, and in 1 day confiscated 450 dishes in a single neighborhood. Early in the year, western media reported that Islamist militia confiscated approximately 40,000 satellite dishes from 4 factories secretly manufacturing satellite equipment in eastern Tehran; however, the vast majority of satellite dishes in individual homes continued to operate.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of the press, except when published ideas are "contrary to Islamic principles, or are detrimental to public rights"; it makes no mention of freedom of speech. In practice, the Government severely restricted freedom of speech and of the press. Since the election of President Khatami, the independent press, especially newspapers and magazines, played an increasingly important role in providing a forum for an intense debate regarding reform in the society. However, basic legal safeguards for freedom of expression did not exist, and since approximately 2000, the independent press has been subjected to arbitrary enforcement measures by elements of the Government, notably the judiciary, which treated such debates as a threat.

In October, security forces prevented dissident intellectual Emaddedin Baghi from leaving the country to accept an award for civil courage, informing him he was on a list of those forbidden to leave the country (*see* Section 2.d.). Later that month, a court revoked a December 2003 ruling that had suspended a 1-year prison sentence for "propagating against the regime," giving him 20 days to appeal the ruling. At year's end, Baghi was still free; however, he was not permitted to leave the country.

In November, local press reported that after an early October trial, a Tehran Revolutionary Court sentenced Ebrahim Yazdi, leader of the Iranian liberal nationalist Freedom Movement opposition party, to an unspecified but long-term imprisonment, based on charges of actions against national security, possessing unauthorized weapons, insulting the supreme leader and government officials, and propagating against the system through actions benefiting opposition groups.

The Government continued to harass senior Shi'a religious and political leaders and their followers who dissent from the ruling conservative establishment. In May, the Special Court for the Clergy in Qom arrested Hojatoleslam Mujtaba Lotfi, an aide to Ayatollah Hussein Ali Montazeri-Najafabadi, for publishing a book that detailed the ayatollah's 5 years under house arrest. The book also covered the attacks on Montazeri's home and theological school and described the various charges and accusations against Ayatollah Montazeri. The court confiscated all copies of the book. More generally, there were reports that the Government maintained a broad network of student informants in Qom's major seminaries, who reported teachings that are counter to official government positions.

According to HRW, following a meeting in November 2003 with the UN Special Rapporteur on Freedom of Opinion and Expression, a student (Ahmed Batebi), who was out of prison on medical leave, was returned to prison by government officials (*see* Section 1.d.).

In October 2003, media reported that reformist parliamentarian and outspoken critic Mohsen Armin was sentenced to 6 months in prison for insulting a conservative Majlis member. The judge reportedly also stripped Armin of his "social rights" for 1 year for not appearing in court. Armin ascribed his absence from court to his assumption that he held parliamentary immunity. In August, Armin appeared in court in response to a complaint relating to speeches he made in 1999–2002 and an accusation of spreading lies. At year's end, Armin had not been imprisoned.

In spring 2001, security forces arrested then Majlis member Fatima Haqiqatju for inciting public opinion and insulting the judiciary for criticizing the arrest of a female journalist and claiming that the Government tortured prisoners. She was the first sitting Majlis member to face prosecution for statements made under cover of immunity. Haqiqatju was sentenced to 17 months in prison, although at year's end, she had not been imprisoned for this offense. Separately, in June, the public prosecutor summoned her to court and charged her with "propaganda against the system," "spreading lies with the intent of disturbing public opinion," and "insulting the Council of Guardians, the judiciary, and the Islamic Revolutionary Guard Corps." She was released on bail, but she was forbidden to leave the country. On November 29, Haqiqatju was summoned to a Tehran Penal Court due to a complaint by the Public Prosecutor based on her February 23, 2003, resignation speech from the Majlis. She was charged with spreading lies to disturb public opinion, insulting officials, and propaganda against the Government.

Newspapers and magazines represented a wide variety of political and social perspectives, many allied with members of the Government. Many subjects were tolerated, including criticism of certain government policies. However, the Press Law prohibits the publishing of a broad and ill-defined category of subjects, including material "insulting Islam and its sanctities" or "promoting subjects that might damage the foundation of the Islamic Republic." Prohibited topics include fault-finding comments regarding the personality and achievements of the late Leader of the Revolution, Ayatollah Khomeini; direct criticism of the Supreme Leader; assailing the principle of velayat-e faqih, or rule by a supreme religious leader; questioning the tenets of certain Islamic legal principles; publishing sensitive or classified material affecting national security; promotion of the views of certain dissident clerics, including Ayatollah Montazeri; and advocating rights or autonomy for ethnic minorities. Organs of the Government, such as the judiciary or the National Security Council, often issued written orders to newspapers instructing them to avoid covering controversial topics, or directing them as to how to cover these topics.

The Press Law established the Press Supervisory Board, which is responsible for issuing press licenses and for examining complaints filed against publications or individual journalists, editors, or publishers. In certain cases, the Press Supervisory Board may refer complaints to the Press Court for further action, including closure. Its hearings were conducted in public with a jury composed of clerics, government officials, and editors of government-controlled newspapers. The jury was empowered to recommend to the presiding judge the guilt or innocence of defendants and the severity of any penalty to be imposed, although these recommendations were not legally binding.

Since 2000, approximately 100 newspapers and magazines have been closed for varying lengths of time. In the last few years, some human rights groups asserted that the increasingly conservative Press Court assumed responsibility for cases before Press Supervisory Board consideration, often resulting in harsher judgments. Efforts to amend the press laws have not met with success, although in October 2003, Parliament passed a law limiting the duration of temporary press closures to a maximum of 10 days for newspapers, 4 weeks for weeklies or bi-weeklies, 2 months for monthlies, and 3 months for other publications. The importance of the legislation was to stop the practice of extending "temporary" bans indefinitely.

The Press Law allows government entities to act as complainants against newspapers, and often members of the Islamic Revolutionary Guards Corps, the Intelligence Ministry, the Law Enforcement Forces, the Islamic Republic of Iran Broadcasting, or other public officials lodged criminal complaints against reformist newspapers that led to their closures. Offending writers were subjected to lawsuits and fines. Suspension from journalistic activities and imprisonment were common punishments for guilty verdicts for offenses ranging from "fabrication" to "propaganda against the State" to "insulting the leadership of the Islamic Republic."

Freedom of the press continued to deteriorate during the year. Many reformist newspapers and magazines were closed, and many of their managers were sentenced to jail and, sometimes, lashings.

In January, legal authorities threatened eight reformist dailies for their coverage of the sit-in by reformist deputies in front of the Parliament. The weekly Hadith-e Kerman, in Kerman Province, was closed in February for coverage in 2003 of se-

rial killings committed by armed militia. In February, prior to the Parliament elections, the newspapers Sharq and Yas-e Nau were shut for publishing extracts from a letter by reformist parliamentarians to the Supreme Leader of the Islamic Republic, Ali Khamenei. The letter blamed Khamenei for the electoral "coup d'état" and the current political crisis. In July, Jumhuriyat, a morning newspaper started by reformist and human rights activist Emadeddin Baqi, was closed after publishing only one issue. Also in July, the court for offenses committed by government employees and the media issued a temporary ban against the Vaqa-yi Itifaqi-yi daily newspaper. Complaints against the newspaper included propaganda against the state, "insulting officials," and "publishing lies." At year's end, the paper remained closed. A handful of pro-reform newspapers continued to publish, most with heavy self-censorship. In contrast to the past when new reformist newspapers often opened to replace those that had been closed, this was no longer the case.

Dozens of individual editors and journalists have been charged and tried by the Press Court in recent years, and several prominent journalists were jailed for long periods without trial. Others have been sentenced to prison terms or exorbitant fines. As of October, at least 14 journalists, editors, and publishers remained in prison, according to Reporters Without Borders (RSF), the most prominent being Akbar Ganji, sentenced to 6 years in prison in 2000 for his reporting on the "serial murder" of prominent reformists by elements within the Intelligence Ministry. Ganji has been allowed short furloughs from prison for treatment of a serious medical condition. Ali Reza Jabari was jailed in March 2003 after being sentenced to 4 years of imprisonment, 253 lashes, and an approximately $750 (600,000 Tomans) fine for "relations with enemies of the Islamic Republic of Iran and propaganda against the Government." Appeals subsequently reduced his term to 2 years, and he was released in October, 4 months before the end of his 2-year sentence. Other journalists imprisoned during the year included: Iraj Jamshidi, imprisoned without trial and held in isolation for long periods; Taghi Rahmani, held in solitary confinement for long periods and reportedly sentenced in a separate case to 13 years in jail; and Reza Alijani and Hoda Saber, both held since June 2003 and reportedly sentenced in separate cases to 6 and 10 years, respectively. In November, the head of Tehran's Islamic Revolution's Court Branch 26 ordered Alijani, Saber, and Rahmani released on bail of approximately $63,000 (50 million Tomans) each. In October 2003, journalist Mohsen Sazgara was released from jail amid rumors of ill health, after 4 months in prison on charges of inciting protest.

In January, freelance journalist Ensafali Hedayat was arrested after returning to the country after attending a conference in Germany organized by a group advocating a democratic and secular state. He reportedly faced charges relating to national security in connection with his participation in this conference and with a visit to Turkey in 2003, as well as defamation charges relating to an article he wrote which appeared on a website. Reportedly he was held in solitary confinement. In May, the Tabriz Appeals Court confirmed an 18-month prison sentence against him; reportedly he planned to appeal. However, in early December, according to his lawyer, Hedayat was returned to prison and his application to extend his leave from prison denied, due to "political activities" while on leave.

In January, a criminal court found Abdul Rasul Vesal, managing director of the daily newspaper Iran, guilty of press offenses and barred him from working in public service (journalism) for 3 years.

In May, an Iranian cleric serving as a member of the Press Supervisory Council, physically attacked and bit reformist journalist Issa Saharkhiz during a council meeting. At year's end, no charges had been brought against the cleric.

In August, a court summoned former Majlis Deputy Mohsen Mirdamadi in response to a complaint from an Islamic Revolution Guards Corps member concerning published remarks by Mirdamadi that military personnel's interference in political affairs weakens the armed forces. At year's end, there was no further information on legal action; however, he had not been incarcerated.

In August, dissident intellectual reformist and journalist Emaddedin Baqi and attorney Saleh Nikbakht appeared in court because of a complaint filed by the Intelligence and Security Ministry, relating to Baqi's banned book "Tragedy of Democracy in Iran." Later in August, a public court fined Baqi approximately $115 (100 thousand Tomans) for insulting the Council of Guardians and other officials.

In September, government officials arrested Hanif Mazroui, the son of a former member of Parliament, Rajabali Mazroui. Mazroui was a computer technician who worked for the daily newspaper Vaghayeh Etefaghieh, which was shut by the Government. He was freed on November 11 after paying approximately $19,000 (15 million Tomans) bail.

On December 27, the press reported that the Revolutionary Court sentenced prominent political activist Heshmat Tabarzadi, jailed since June 2003, to 16 years in prison.

On December 25, a Tehran judge ruled, based on a complaint by the State-run "Voice and Vision" media, that former Tehran Majlis Representative Abol Fazl Shakuri Rad must pay approximately $500 (400,000 Tomans) for comments made while he was a Majlis representative, despite constitutional protection according representatives the right to "express their views on all internal and external affairs of the country."

The Government censored and banned access to Internet sites, many of them with political content, such as the Amir Kabir University news website. During the year, the Government launched a crackdown on sites based in the country, to include "weblogs." Reportedly during the year, the Government blocked hundreds of Internet sites. According to HRW, since September, more than 20 Internet journalists and civil society activists have been arrested and held in a secret detention center in Tehran. By year's end, most were released on bail. On December 10, in a public letter to President Mohammed Khatami, the father of one of those detained, Ali Mazrui, who is also president of the Association of Iranian Journalists and a former Majlis member, implicated the judiciary in the torture and secret detention of these individuals. On December 11, the chief prosecutor of Tehran, Judge Saeed Mortazavi, filed charges against Mazrui for libel. On December 14, four of these "weblog" detainees were presented at a televised "press conference" arranged by Judge Mortazavi and denied that they had been subjected to solitary confinement, torture, or ill-treatment during their earlier detention. However, widespread and credible reports indicated that threats and coercions were used to induce their statements and, while in secret detention, threats, torture, and physical abuse were employed to obtain false confessions and letters of repentance from many of those detained.

On November 1, according to media information, Mahboubeh Abbas-Gholizadeh, editor of the magazine Farzaneh, was arrested after returning from London where she attended the European Social Forum. She was released on bail of approximately $38,000 (30 million Tomans) in late November.

On October 28, Fereshteh Ghazi, a journalist addressing women's issues for the daily newspaper Etemad, was arrested after being summoned to court to answer questions. She was released in mid-December after 40 days of detention and paying bail of approximately $62,000 (50 million Tomans). She was detained on a variety of charges including "acting against state security, spreading lies, membership in internal opposition groups, and defense of murders in order to stir up public opinion against the judiciary." For 23 of the 40 days of detention, Gazhi was on a hunger strike. According to press accounts, at least part of the time she was held in an undisclosed location and was repeatedly beaten by her interrogators for refusing to cooperate with her interrogators, including refusal to sign a "confession." Her interrogators reportedly inflicted multiple, severe injuries, and, upon release in mid-December, she was immediately hospitalized.

On October 18, Javad Gholam Tamayomi, a journalist with the daily Mardomsalari was arrested after responding to a summons from the Tehran prosecutor's office. On October 10, authorities arrested journalist and Internet writer Omid Memarian and detained him on charges of espionage. In early December, four of the seven detained "weblog journalists" were released on bail, with Omid Memarian and Shahram Rafizadeh released on bail of approximately $62,000 dollars (50 million Tomans). On September 27, Rozbeh Mir Ebrahimi, former political editor of the daily Etemad was arrested at his home for contributing to reformist Internet websites. On November 26, he was released on a bail of approximately $4,000 (3 million Tomans).

Other weblog journalists detained as part of this repression included Shahram Rafizadeh, Babak Ghafouri-Azar, and Mehdi Derayati. The judiciary announced that they would be tried for "acting against national security, disturbing the public mind, and insulting sanctities." On November 11, Mehdi Derayati, Masoud Ghoreishi, and Asghar Vatanikhah were released on bail. According to Derayati's father, these detainees spent up to 3 months in detention, much of it in solitary confinement at an undisclosed location. A number of Internet news sites continued to operate from outside the country. There is little information on the extent of readership inside the country; however, media suggested that there were upwards of 4.8 million Internet users and as many as 100,000 weblogs.

In January 2003, the judiciary halted efforts by deputy speaker of the Majlis, Mohammad-Reza Khatami, to re-open the banned newspaper Norouz under the new name Rouz-e No, by extending the 6-month ban on the original publication. Khatami was slated to replace former Norouz editor and parliament member

Mohsen Mirdamadi, who, despite parliamentary immunity, was sentenced in May 2002 to 6 months in jail and banned from practicing journalism for 4 years for "insulting the state, publishing lies, and insulting Islamic institutions." At year's end, there were no reports that Mirdamadi had been imprisoned; however, the newspaper has never re-opened.

In January 2003, the newspaper Hayat-e No was banned and editor Alireza Eshraghi arrested after the paper reprinted a 1937 U.S. cartoon about President Franklin Roosevelt's battle with the Supreme Court. The authorities deemed that the judge portrayed too closely resembled the late Ayatollah Ruhollah Khomeini. Eshraghi was released on bail for $31,400 (25 million Tomans) in March 2003, after spending all his jail time in solitary confinement in Evin Prison. The daily Hamshahri was also temporarily suspended in January 2003 after refusing to print an article from the chief of a state-run trade union. Hamshahri was apparently shut for 5 days; however, Hayat-e No remained closed at year's end.

In January 2003, the Press Court also closed the reformist daily Bahar after the newspaper ran an article about a company whose shareholders include former president Hashemi Rafsanjani, former judiciary head Ayatollah Yazdi, and Ahmad Jannati, head of the Legislative Branch's Guardians Council. Bahar was first closed in 2000 and had only re-opened in December 2002. The newspaper remained closed throughout the year.

In February 2003, according to AI, Abbas Abdi and Hussein Qazian were sentenced to 8 and 9 years, respectively, in the National Institute for Research Studies and Opinion Polls case. In April 2003, an appeals court reduced the sentences to 4 years and 6 months for each. The third defendant in the case, Behrouz Geranpayeh, was reportedly released on bail in January 2003, pending a final ruling. The case originated in October 2002, when the judicial authorities closed the Institute, which had found in a poll commissioned by the Majlis that a majority of citizens supported dialogue with the United States. The defendants were charged with spying for the United States, illegal contacts with foreign embassies, working with anti-regime groups, and carrying out research on the order of a foreign polling organization. Government intelligence officials publicly stated that the accused were not spies. According to press reports, President Khatami also rejected the charges, stating that the Intelligence and Foreign Ministries had cleared the pollsters' work. Reformist parliamentarians were reportedly barred from the court, and the defendants were not allowed to see their families or their attorneys. At year's end, the defendants remained in jail.

In May 2003, a government spokesman acknowledged state attempts to block access to "immoral" websites. The judiciary also announced the creation of a special unit to handle Internet-related issues. According to press reporting, the judiciary highlighted over 20 subject areas to be blocked, including: insulting Islam; opposing the Constitution; insulting the Supreme Leader or making false accusations about officials; undermining national unity and solidarity; creating pessimism among the population regarding the Islamic system; and propagating prostitution and drugs.

In October 2003, RSF reported that the Government closed the newspaper Avaye Kordestan, marking the first time a Kurdish language newspaper was banned in the country.

The Government directly controlled and maintained a monopoly over all television and radio broadcasting facilities; programming reflected the Government's political and socio-religious ideology. Because newspapers and other print media had a limited circulation outside large cities, radio and television served as the principal news source for many citizens. Satellite dishes that received foreign television broadcasts were forbidden; however, many citizens, particularly the wealthy, owned them. In December 2002, the Majlis passed a bill legalizing private ownership of satellite receiving equipment. However, the Council of Guardians rejected the legislation in January 2003 on constitutional and religious grounds. The Government reportedly acted to block foreign satellite transmissions during the year using powerful jamming signals (*see* Section 1.f.).

The Ministry of Islamic Culture and Guidance was in charge of screening books prior to publication to ensure that they did not contain offensive material. However, some books and pamphlets critical of the Government were published without reprisal. The Ministry inspected foreign printed materials prior to their release on the market. In August 2003, author of "Iran's Women Musicians," Toka Maleki, its publisher Jaafar Homai, and cultural critic Banafsheh Samgis received prison terms for publishing and publicly commenting on the book, which was deemed to contain "lies" about Islamic history. The translator of the book, "Women behind Veil and Well-Dressed Men," Maliheh Moghazei and Ministry of Culture and the Islamic Guidance Director General Majid Sayyad also received prison terms in connection with the book's publication.

The Government effectively censored domestic films, since it remained the main source of production funding. Producers must submit scripts and film proposals to government officials in advance of funding approval. In April, "Lizard," a film indirectly satirizing the clerical class, was released. It was withdrawn from circulation in May, and the screenwriter, director, producer, and star were banned briefly from travel abroad. Since the release and subsequent banning of this film, government restrictions over film have intensified.

The Government restricted academic freedom. Government informers were common on university campuses. Admission to universities was politicized; all applicants had to pass "character tests" in which officials screened out applicants critical of the Government's ideology. To obtain tenure, professors had to refrain from criticism of the authorities.

b. Freedom of Peaceful Assembly and Association.—The Constitution permits assemblies and marches "provided they do not violate the principles of Islam"; however, in practice the Government restricted freedom of assembly and closely monitored gatherings to prevent anti-government protest. Such gatherings included public entertainment and lectures, student gatherings, labor protests, funeral processions, and Friday prayer gatherings.

During a wave of student protests in June 2003, government-supported vigilantes beat many protestors, and police arrested approximately 4,000 persons according to government figures shortly after the protests. Although the police arrested both protestors and vigilantes, the overwhelming majority of those arrested were protestors. Approximately 130 of those arrested during these protests were still in detention as of December. The Government banned demonstrations planned for July 9 to commemorate the killing of several students by security forces in the 1999 demonstrations in both 2003 and 2004 (*see* Sections 1.b. and 1.f.). An unknown number of the students were still imprisoned, in addition to Ahmed Batebi, Manuchehr Mohammadi, Abbas Fakhravar, Akbar Mohammadi, and Mehrdad Lahrasbi. AI reported in March that Abbas Fakhravar had been given 19 days leave from prison and that prior to temporary release, he had been confined in "Band 325" military detention center run by the Islamic Revolutionary Guard Corps and subjected to sensory deprivation. As of November, International PEN reported that Fakhravar Fakhravar had been returned to Evin Prison.

In December, according to local media, imprisoned student activist Manuchehr Mohamadi was found guilty of disturbing order in prison and acting against officials, and fined approximately $375 (300,000 Tomans), which converted to additional imprisonment.

Paramilitary organizations such as the Ansar-e Hezbollah, a group of vigilantes who seek to enforce their vision of appropriate revolutionary comportment upon the society, harassed, beat, and intimidated those who demonstrated publicly for reform. Ansar-e Hezbollah gangs were used to harass journalists, intimidate dissident clerics, and disrupt peaceful gatherings. Ansar-e Hezbollah cells were organized throughout the country, and some were reportedly linked to individual members of the country's leadership. In the period prior to the February Majlis elections, Ansar-e Hezbollah and other government-supported vigilantes repeatedly attacked political gatherings of reformist candidates and vandalized their offices.

In January, approximately 200 members of the Ansar-e Hezbullah vigilante group attacked a political meeting of disqualified prospective parliamentary candidates and their supporters in Hamedan. The vigilantes entered the meeting hall, heckled the speakers, and rushed the speakers' platform. No legal action was taken against the vigilantes.

In May, government security officers reportedly attacked workers and their families during a Labor Day march in Saqez; 40 workers, including labor leader Mahmoud Salehi, reportedly were arrested (*see* Section 6.b.).

In June, security forces reportedly arrested more than 100 ethnic Azeris for "spreading secessionist propaganda" during a holiday gathering of thousands of Azeri-Iranians in East Azerbaijan Province.

In September, approximately 100 vigilantes disrupted a speech by prominent Islamic scholar Abdolkarim Soroush at a private home; security forces present at the scene failed to stop them. There was no subsequent legal action against the vigilantes.

In June 2003, during a wave of pro-reform protests, members of vigilante groups, such as Ansar-e Hezbollah, attacked protestors, according to press reports. Ansar-e Hezbollah members reportedly stormed a university dormitory in Tehran, destroyed student property, and injured more than 50 students. Some vigilantes were reportedly included among those arrested by authorities during the clashes. Vigilantes who attacked a demonstration in Shiraz reportedly killed a protestor. Before

being transferred to government custody, vigilantes reportedly seized and beat journalist Ensafali Hedayat. Vigilante groups were also reported to have attacked protesters during pro-reform demonstrations near Tehran University in December 2003.

In December 2003, vigilantes beat reformist parliamentarian, Mohsen Mirdamadi, as he began a speech in Yazd. President Khatami ordered a crackdown on vigilantes after the attack; five individuals subsequently were arrested. At year's end, there was no further information on the status of their detention.

In November 2002, the Aghajari verdict sparked large and ongoing protests at universities throughout the country (*see* Section 1.e.). Students boycotted classes for almost 2 weeks and staged the largest pro-reform demonstrations in 3 years, with crowds of up to 5,000 at any given location. In late December 2002, two students were given jail terms for their protests against the Aghajari sentence. Hojatollah Rahimi was sentenced to 2 years in prison and 70 lashes for "insulting religious sanctities and issuing an insulting declaration." Co-defendant Parviz Torkashvand was sentenced to 4 months in jail and 40 lashes. At year's end, there was no further information on their status.

Government restrictions using Basiji and other forces restored quiet for 2 weeks, until a large demonstration occurred at the University of Tehran in December 2002, attended by over 2,000 within the walls of the campus, and with a larger crowd outside. Law enforcement officials and "plainclothes" forces wielding batons, whips, and belts suppressed the protest. Basiji violently dispersed subsequent demonstrations.

The Constitution provides for the establishment of political parties, professional associations, Islamic religious groups, and organizations for recognized religious minorities, provided that such groups do not violate the principles of "freedom, sovereignty, and national unity," or question Islam as the basis of the Islamic Republic; however, the Government limited freedom of association, in practice.

In July 2002, the Government permanently dissolved the Freedom Movement, the country's oldest opposition party, jailing some members and baring others from political activity for up to 10 years (*see* Sections 1.d. and 3).

In 2001, the Government provisionally closed the 50-year-old Iran Freedom Movement political party for "attempting to overthrow the Islamic regime," and the Government permanently banned it in 2002. In response to the permanent dissolution of the movement, President Khatami warned against the banning of political groups, saying that suppression did not eliminate ideas; they were simply forced underground and continue to grow (*see* Sections 1.d. and 1.e.).

c. Freedom of Religion.—The Constitution declares that the "official religion of Iran is Islam and the doctrine followed is that of Ja'fari (Twelver) Shi'ism." The Constitution also states that "other Islamic denominations are to be accorded full respect" and recognizes Zoroastrians, Christians, and Jews, the country's pre-Islamic religions, as "protected" religious minorities; however, in practice, the Government restricted freedom of religion.

Religions not specifically protected under the Constitution did not enjoy freedom of religion. This situation most directly affected the approximately 300,000 followers of the Baha'i faith, who were not recognized by the Government as a community and were considered to belong to an outlawed political organization.

The central feature of the country's Islamic republican system is rule by a "religious jurisconsult." Its senior leadership, including the Supreme Leader of the Revolution, the President, the Head of the Judiciary, and the Speaker of the Islamic Consultative Assembly (Parliament) was composed principally of Shi'a clergymen.

The Ministry of Intelligence and Security (MOIS) closely monitored religious activity. Adherents of recognized religious minorities were not required to register individually with the Government. However, their community, religious, and cultural organizations, as well as schools and public events, were monitored closely. The population was approximately 99 percent Muslim, of which 89 percent were Shi'a and 10 percent Sunni. Minorities (mostly Turkomen, Arabs, Baluchs, and Kurds) lived in the southwest, southeast, and northwest sections of the country. Baha'i, Christian, Zoroastrian, and Jewish communities constituted less than 1 percent of the population.

Sunni Muslims are the largest religious minority in the country. The Constitution provides Sunni Muslims a large degree of religious freedom, although, for example, it forbids a Sunni Muslim from becoming President. In practice, Sunni Muslims claimed that the Government discriminated against Sunnis, although it was hard to distinguish whether the cause for discrimination was religious or ethnic, since most Sunnis are also ethnic minorities. Sunnis cited the lack of a Sunni mosque in the nation's capital, Tehran, despite the presence of over a million Sunnis living there, as a prominent example of this discrimination. Sunnis also have cited as

proof of discrimination the lack of Sunni representation in appointed offices in provinces where Sunnis form a majority, such as Kordestan Province, and also the reported inability of Sunnis to obtain senior governmental positions. Sunnis also have charged that the state broadcasting company, Voice and Vision, aired programs insulting to Sunnis.

In April, Sunni Majlis representatives sent a letter to Supreme Leader Khameneni, decrying the lack of Sunni presence in the executive and judiciary branch of government, especially in higher-ranking positions in embassies, universities, and other institutions. They called on Khamenei to halt anti-Sunni propaganda in the mass media, books, publications, and the state-run media; they also requested adherence to the constitutional articles ensuring equal treatment of all ethnic groups.

Members of the country's religious minorities, particularly Bahai's, reported imprisonment, harassment, and intimidation based on their religious beliefs. All religious minorities suffered varying degrees of officially sanctioned discrimination, particularly in the areas of employment, education, and housing. The Government generally allowed recognized religious minorities to conduct religious education of their adherents, although it restricted this right considerably in some cases. Religious minorities, by law and practice, are barred from election to a representative body, except to the five Majlis seats reserved for minorities, and from holding senior government or military positions. Members of religious minorities were allowed to vote, but they could not run for President. Although the Constitution mandates an Islamic Army, members of religious minority communities sometimes served in the military.

The Government allowed recognized religious minorities to establish community centers and certain privately financed cultural, social, sports, or charitable associations. However, since 1983, the Government has denied the Baha'i community the right to assemble officially or to maintain administrative institutions.

The legal system discriminated against religious minorities, awarding lower monetary compensation in injury and death lawsuits for non-Muslims than for Muslims and imposing heavier punishments on non-Muslims than on Muslims. However, in January, the Expediency Council approved appending a Note to Article 297 of the 1991 Islamic Punishments Act, authorizing collection of equal blood money for the death of Muslims and non-Muslims.

Proselytizing of Muslims by non-Muslims is illegal and the Government was harsh in its response, in particular against Baha'is and evangelical Christians. The Government did not ensure the right of citizens to change or recant their religion. Apostasy, specifically conversion from Islam, is punishable by death.

Baha'is were considered apostates because of their claim to a religious revelation subsequent to that of the Prophet Mohammed. The Government defined the Baha'i faith as a political "sect" linked to the Pahlavi monarchy and, therefore, as counterrevolutionary. Historically at risk, Baha'is often have suffered increased levels of mistreatment during times of political unrest. There have been reports in the past that historic Baha'i shrines were destroyed. Baha'is may not teach or practice their faith or maintain links with co-religionists abroad. The Government continued to imprison and detain Baha'is based on their religious beliefs. A 2001 Ministry of Justice report indicated that government policy aimed at the eventual elimination of the Baha'is as a community.

In February, two members of the Baha'i faith, Bihnam Mithaqi and Kayvan Khalajabadi, were released from prison after serving almost 15 years on charges related to their religious beliefs. According to a Baha'i organization, the only Baha'i still known to be imprisoned in the country because of his adherence to the Baha'i faith is Zabihullah Mahrami, who was arrested in September 1995 and is serving a life sentence.

In July, for the first time, Baha'i applicants were permitted to take part in the nationwide exam for entrance into state-run colleges. However, the word "Islam" was pre-printed in a slot listing a prospective student's religious affiliation. This action precluded Baha'i matriculation, since as a matter of faith, Baha'is do not deny their faith.

According to Baha'i sources outside the country, since 2002, 23 Baha'is from 18 different localities were arbitrarily arrested and detained for a short time because of their Baha'i faith. None of these persons was in prison at the end of the period covered by this report.

In 2001, the UNSR estimated the Christian community at approximately 300,000. Of these, the majority were ethnic Armenians and Assyro-Chaldeans. Protestant denominations and evangelical churches also were active, but they reported restrictions on their activities. The authorities became particularly vigilant in recent years in curbing proselytizing activities by evangelical Christians. In May and June, several Christians in the northern part of the country reportedly were arrested, and

in September, officials raided the Protestant Assemblies of God Church, imprisoning its minister, Hamid Pourmand. Since his arrest, Pourmand has been imprisoned at an undisclosed location, and, under local law, he can be executed for "apostasy against Islam."

In May, there were reports of the arrest of evangelical Christians in the northern part of the country, including a Christian pastor and his family in Mazandaran Province. The pastor's family and two other church leaders who had been arrested earlier were reportedly released on May 30. Although the pastor reportedly was a convert from the Baha'i Faith, a number of those arrested in raids on house churches were converts from Islam. The pastor and another Christian leader reportedly were released from custody in early July.

Estimates of the size of the Jewish community varied from 20,000 to 30,000, a substantial reduction from the estimated 75,000 to 80,000 Jews in the country prior to the 1979 revolution. While Jews were a recognized religious minority, allegations of official discrimination were frequent. The Government's anti-Israel stance, and the perception among many citizens that Jewish citizens supported Zionism and the State of Israel, created a threatening atmosphere for the small community. Jews limited their contact with and did not openly express support for Israel out of fear of reprisal. Jewish leaders reportedly were reluctant to draw attention to official mistreatment of their community due to fear of government reprisal.

The Government carefully monitored the statements and views of the country's senior Muslim religious leaders. It has restricted the movement of several who have been under house arrest for years. All ranking clerics were under pressure to ensure that their teachings confirm or at least do not contradict government policy and positions.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Government placed some restrictions on these rights. Citizens may travel within the country and change their place of residence without obtaining official permission. The Government required exit permits (a validation stamp in the passport) for foreign travel for draft-age men and citizens who were politically suspect. Some citizens, particularly those whose skills were in short supply and who were educated at government expense, must post bonds to obtain exit permits. The Government restricted the movement of certain religious minorities and several religious leaders (*see* Sections 1.d. and 2.c.).

In October, AI reported that the Government confiscated the passport of a senior member of the Society for the Defense of the Rights of Prisoners, preventing him from attending human rights conferences (*see* Section 4).

In May, the Government temporarily prohibited the screenwriter, director, producer, and star of the satirical film, "Lizard," from leaving the country (*see* Section 2.a.).

Citizens returning from abroad sometimes were subjected to searches and extensive questioning by government authorities for evidence of anti-government activities abroad. Recorded and printed material, personal correspondence, and photographs were subject to confiscation.

The Government permitted Jews to travel abroad, but it often denied them multiple-exit permits issued to other citizens. Baha'is often experienced difficulty in obtaining passports.

Women must obtain the permission of their husband, father, or another male relative to obtain a passport. Married women must receive written permission from their husbands before being allowed to leave the country.

The Government did not use forced exile, and no information was available regarding whether the law prohibits forced exile; however, the Government used internal exile as a punishment. Many dissidents and ethnic and religious minorities left and continue to leave the country due to a perception of threat from the Government.

The law provides for granting asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. The Government has established a system for providing protection to refugees. There were no reports of the forced return of persons to a country where they feared persecution; however, there were reports that the Government deported refugees deemed "illegal" entrants into the country. In times of economic uncertainty, the Government increased pressure on refugees to return to their home countries. The Government generally cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and refugee seekers.

There was no information on the policy of the Government regarding temporary protection to individuals who may not qualify as refugees under the 1951 Convention or its 1967 Protocol.

The country hosted a large refugee population, mostly Afghans, as well as a significant number of Iraqis. After the September 2001 terrorist attacks, the Government sealed its border in anticipation of a war in Afghanistan and a resulting wave of refugees. The Government set up several refugee camps just inside Afghanistan to deal with the crisis. In September, UNHCR estimated that approximately 1 million refugees from Afghanistan remained in the country, with up to 1 million having returned to Afghanistan since the fall of the Taliban in December 2001. The Government denied UNHCR concerns that it was pressing Afghan refugees to leave. Most refugees subsisted on itinerant labor. The Government accused many Afghans of involvement in drug trafficking.

The UNHCR estimated that in 2001 there were approximately 200,000 Iraqi refugees in the country, the majority of whom were Iraqi Kurds, but also including Shi'a Arabs. Iraq expelled many of these Iraqi refugees at the beginning of the Iran-Iraq war because of their suspected Iranian origin. In numerous instances, both the Iraqi and Iranian Governments disputed their citizenship, rendering many of them stateless. Other Iraqi refugees arrived following Iraq's invasion of Kuwait in 1990.

During 2003, the Government took substantial steps to prepare for the possibility of new Iraqi refugees, but significant outflows never appeared. In November 2003, the UNHCR initiated a pilot repatriation of refugees from the country and had repatriated a few hundred to Iraq by early December 2003. According to press reports, refugee officials speculated that up to 120,000 of the 200,000 refugees in the country may have crossed back into Iraq without formal assistance since April 2003. As of September, according to the UNHCR, approximately 9,000 Iraqi refugees in the country had been repatriated into Iraq, as part of a UNHCR program.

Although the Government has claimed to host more than 30,000 refugees of other nationalities, including Tajiks, Bosnians, Azeris, Eritreans, Somalis, Bangladeshis, and Pakistanis, it did not provide information about them or allow the UNHCR or other organizations access to them. There was no further information during the year.

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

The right of citizens to change their government is restricted significantly. The Supreme Leader, the recognized Head of State, is elected by the Assembly of Experts and can only be removed by a vote of this same Assembly. The Assembly is restricted to clerics, who serve an 8-year term and are chosen by popular vote from a list approved by the Government. There is no separation of state and religion, and clerical influence pervades the Government, especially in appointed, rather than elected, positions. The Government effectively controlled the selection of candidates for elections. The Council of Guardians, which reviews all laws for consistency with Islamic law and the Constitution, also screens candidates for election for ideological, political, and religious suitability. It accepts only candidates who support a theocratic state; clerics who disagree with government policies or with a conservative view of the Islamic state also have been disqualified.

Regularly scheduled elections are held for the Presidency, the Majlis, and the Assembly of Experts.

Elections that were widely perceived as neither free nor fair were held for the 290-seat Majlis in February. The Council of Guardians, taking an expansive interpretation of its responsibility to screen candidates, barred over a third of the over 8,000 prospective candidates, mostly reformists, to include over 85 sitting Majlis members seeking re-election. Reasons cited included not showing "demonstrated obedience" to the current system of government. Reformers were reduced to a small minority of the Majlis.

Subsequently, there has been tension between the new Majlis and President Khatami's Government. On October 4, the Vice President for Majlis and Legal Affairs resigned, stating that he was unable to facilitate good relations between the Government and the Majlis.

Mohammad Khatami, a former Minister of Culture and Islamic Guidance who was impeached in 1992 by the Majlis for "liberalism" and "negligence," was elected President in 1997 and reelected in 2001 with 77 percent of the vote. The UNSR reported that the Council of Guardians significantly limited the number of candidates permitted to run in elections and noted that the Interior Minister denounced the "unprincipled disqualification" of candidates.

Elections were last held in the fall of 1998 for the 86-member Assembly of Experts. The Council of Guardians disqualified numerous candidates, which led to crit-

icism from many observers that the Government improperly predetermined the election results.

In March, Supreme Leader Ayatollah Ali Khamenei told reporters that, "any action that weakens the sacred Islamic republican state is not permissible."

In 1999, elections for nationwide local councils were held for the first time since the 1979 revolution. A second round of nationwide local council elections was held in February 2003; substantial numbers of the pro-Khatami reformist forces elected to these councils in 1999 were defeated, and candidates aligned with conservative factions were elected.

In July 2002, the Government permanently dissolved the Freedom Movement, the country's oldest opposition party, jailing some members, fining others and barring them from political activity for up to 10 years (*see* Sections 1.d. and 2.b.).

There was widespread public perception of extensive corruption in all three branches of government, to include the judiciary (where many lawyers have said, "a judge's verdict is sold by the kilo"). This perception augmented by anecdotal information includes extensive corruption in the "bonyards" (foundations). In October, the NGO Transparency International released its annual Corruption Perception Index, noted that the country had an extremely low score (2.9 on a 10 point scale) and commented that, "corruption robs countries of their potential." In September 2003, the CEO and other top executives of the Norwegian oil company "Statoil" were dismissed after revelations of bribes paid an Iranian consulting company with direct links to the son of former President and current Expediency Council Chairman Ayatollah Ali-Akbar Hashemi-Rafsanjani.

The country apparently has no laws providing for public access to government information.

Women held 12 out of 290 Majlis seats. There were no female cabinet members, although several held high-level positions, such as Vice-President. A woman served as Presidential Advisor for Women's Affairs, and another was head of the Environmental Protection Agency.

Majlis seats were reserved for elected Christian (three), Jewish (one) and Zoroastrian (one) deputies. Religious minorities were barred from being elected to any other seats on a representative body and from holding senior government or military positions.

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

The Government continued to restrict the work of local human rights groups. The Government denies the universality of human rights and has stated that human rights issues should be viewed in the context of a country's "culture and beliefs."

In July, the Government granted permission to operate to an independent nonpolitical NGO, the Society for the Defense of the Rights of Prisoners. It worked to protect detainees and promote prison reform, established a small fund to provide free legal advice to prisoners, and supported the families of detainees.

Various professional groups representing writers, journalists, photographers, and others attempted to monitor government restrictions in their fields, as well as harassment and intimidation against individual members of their professions. However, the Government severely curtailed their ability to meet, organize, and effect change. There were domestic NGOs working in areas such as health and population, women and development, youth, environmental protection, human rights, and sustainable development. Some reports estimated a few thousand local NGOs currently in operation.

International human rights NGOs such as HRW and AI were not permitted to establish offices in or conduct regular investigative visits to the country. In June, AI officials, visited the country as part of the European Union's (EU's) Human Rights Dialogue, joining academics and NGOs to discuss the country's implementation of international human rights standards. However, authorities barred HRW and AI representatives from attending the EU's late 2002 human rights talks in Tehran, despite the EU's invitation. An October 2003 EU-Iran human rights dialogue was held in Brussels to facilitate the participation of NGO representatives. The Government also opened a human rights dialogue with Australia in 2002 and with Switzerland in October 2003, however, without tangible progress.

The ICRC and the UNHCR both operated in the country. However, the Government did not allow the UNSR to visit the country from 1997 to 2001, the last year his mandate to monitor human rights in the country was in effect. The Government allowed two visits by U.N. human rights representatives during 2003, one by the UNSR for the Promotion and Protection of the Right to Freedom of Opinion and Expression and one by a U.N. Working Group on Arbitrary Detention; there were no comparable visits during the year. In December, the Plenary of the U.N. 59th Gen-

eral Assembly adopted a resolution condemning the country for human rights abuses, including public executions, floggings, arbitrary sentences, torture, and discrimination against women and minorities.

The Islamic Human Rights Commission (IHRC) was established in 1995 under the authority of the head of the judiciary, who sits on its board as an observer. In 1996, the Government established a human rights committee in the Majlis, the Article 90 Commission, which receives and considers complaints regarding violations of constitutional rights; however, when the Seventh Majlis formed its new Article 90 Commission, the commission announced that it was dropping all cases pending from the Sixth Majlis. During the year, the commission took no effective action.

In October, AI reported that the Government confiscated the passport of Emaddedin Baqi, a senior member of the Society for the Defense of the Rights of Prisoners, preventing him from attending a ceremony outside the country where he was to receive an award for civil courage (*see* Section 2.d.). Baqi reportedly also was required to appear in court in August relating to complaints associated with his writings on human rights issues. At year's end, Baqi was still forbidden to leave the country.

In October 2003, the Article 90 Commission issued a report on the death in custody of Iranian-Canadian photojournalist Zahra Kazemi. The report identified Tehran's Chief Prosecutor and other members of the judiciary as being directly involved in subjecting Kazemi to violent interrogations in Evin Prison, and later attempting to cover up the cause of her death. The Article 90 Commission findings reportedly dismissed allegations of MOIS involvement in Kazemi's death, although an MOIS officer was charged with but later acquitted of her murder (*see* Section 1.a.).

In October 2003, lawyer and human rights activist Shirin Ebadi was awarded the Nobel Peace Prize for her work in advancing human rights both in the country and internationally. Ebadi, who served as one of the first female judges in the country before being forced to resign after the revolution, has campaigned on behalf of women, children, and victims of government repression. She represented the family of Darius and Parvaneh Forouhar, killed in 1998, and of a student killed during the 1999 student protests, which exposed links between vigilante groups and government officials and led to her arrest in 2000. Ebadi is a founder of the Center for the Defense of Human Rights, which represents defendants in political cases. She also agreed to represent the family of Zahra Kazemi during the investigation of her death and subsequent trial, and continued to press for justice in the case.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

In general, the Government did not discriminate on the basis of race, disability, language, or social status; however, it discriminated on the basis of religion, sex, and ethnicity. The poorest areas of the country are those inhabited by ethnic minorities, such as by the Baluchis in Sistan and Baluchestan Province, and by Arabs in the southwest. Much of the damage suffered by Khuzistan Province during the 8-year Iran-Iraq war has not been repaired; consequently, the quality of life of the largely Arab local population was degraded. Kurds, Azeris, and Ahvazi Arabs were not allowed to study their languages.

In October 2003, lawyer and human rights activist Shirin Ebadi was awarded the Nobel Peace Prize for her work in advancing human rights both in the country and internationally.

Women.—Although spousal abuse and violence against women occurred, statistics were not available. Abuse in the family was considered a private matter and seldom was discussed publicly. Rape is illegal, and subject to strict penalties, but remained a widespread problem. The UNSR published statistics provided by the IHRC indicating that, at the end of 2001, an estimated 1,000 of approximately 3,000 active files were related to women's issues.

In July, the Supreme Court voided the death sentence against Afsaneh Noroozi and ordered the case re-investigated by the original court. Noroozi has been jailed since 1997, having been accused of killing a police chief on Kish Island in the southern part of the country. Noroozi's lawyers claimed the act was legally permitted ("mashru"), as the official had tried to rape her, and the country's Islamic penal code allows citizens to take proportionate action to defend "life, honor, chastity, property, or freedom." In November 2003, after lobbying by female Majlis representatives and international attention, judiciary head Ayatollah Mahmoud Hashemi-Shahrudi lifted her death sentence and returned the case to the Supreme Court. On December 21, the Kish Island court began a new trial of Nooroozi.

Prostitution was illegal. Accurate information regarding the extent of the problem was not widely available, although the issue received greater attention as a result of the public's growing interest in social problems. Press reports described prostitu-

tion as a widespread problem, and government statistics showed the average age of prostitutes to be dropping.

In December, human rights groups reported that "Leyla M," an 18-year-old with a mental age of 8 years, faced imminent execution for "morality-related" offences arising from her being forced into prostitution by her parents as a child. In late November, she was sentenced to death by a court in Arak, and the sentence was subsequently passed to the Supreme Court for confirmation. According to November press reports, social workers tested her mental capacities repeatedly, and each time they have found her to have a mental age of 8 years. However, she has apparently never been examined by the court-appointed doctors and was sentenced to death solely on the basis of her explicit confessions, without consideration of her background or mental health.

Provisions in the Islamic Civil and Penal Codes, in particular those sections dealing with family and property law, discriminate against women. Shortly after the 1979 revolution, the Government repealed the Family Protection Law, a hallmark bill adopted in 1967 that had given women increased rights in the home and workplace, and replaced it with a legal system based largely on Shari'a practices. In 1998, the Majlis passed legislation that mandated segregation of the sexes in the provision of medical care. In August 2003, the Council of Guardians rejected a bill that would require the country to adopt U.N. conventions on eliminating torture and ending discrimination against women.

Although the law permits it, marriage at the minimum age of 9 was rare. In mid-2002, authorities approved a law that requires court approval for the marriage of girls below the age of 13 and boys younger than 15. Although a male can marry at age 15 and above without parental consent, the 1991 Civil Law states that a virgin female, even over 18 years of age, needs the consent of her father or grandfather to wed, unless she is willing to go to court to get a ruling allowing her to marry without this consent. The country's Islamic law permits a man to have up to four wives. The law also allowed for the practice of temporary marriages based on a Shi'a custom in which a woman or a girl may become the wife of a married or single Muslim male after a simple and brief religious ceremony. The temporary marriage may last any length of time. According to Shi'a Islamic law, men may have as many temporary wives as they wish. Such wives are not granted rights associated with traditional marriage.

The Penal Code includes provisions for the stoning of women and men convicted of adultery, although judges were instructed at the end of 2002 to cease imposing such sentences (*see* Section 1.c.). Women may receive disproportionate punishment for crimes, including death sentences (*see* Section 1.a.). Women have the right to divorce if their husband has signed a contract granting that right or if the husband cannot provide for his family, is a drug addict, insane, or impotent. However, a husband is not required to cite a reason for divorcing his wife. In December 2002, a new law made the adjudication of cases in which women demand divorces less arbitrary and less costly.

A widely used model marriage contract limits privileges accorded to men by custom, and traditional interpretations of Islamic law recognize a divorced woman's right to a share in the property that couples acquire during their marriage and to increased alimony. Women who remarry are forced to give the child's father custody of children from earlier marriages. However, the law granted custody of minor children to the mother in certain divorce cases in which the father is proven unfit to care for the child. In November 2003, the Government amended the existing child custody law, which in the case of divorce gave a mother custody of a son up to 2 years of age and a daughter up to age 7 years, with custody reverting to the father thereafter. The new law gives a mother preference in custody for children up to 7 years of age; thereafter, the father has custody. After the age of 7 years, in disputed cases, custody of the child is to be determined by the court, taking into consideration the well being of the child.

The testimony of a woman is worth half that of a man in court. The blood money paid to the family of a female crime victim is half the sum paid for a man. A married woman must obtain the written consent of her husband before traveling outside the country (*see* Section 2.d.).

Women had access to primary and advanced education. Reportedly 60 percent of university students were women; however, social and legal constraints limited their professional opportunities. Women were represented in many fields of the work force, and the Government has not prevented women from entering many traditionally male-dominated fields; however, their unemployment rate reportedly was significantly higher than for men. Women can own property in their own name, own businesses, and obtain credit at a bank. Women are barred from seeking the presi-

dency and from appointment to the judiciary. The law provides maternity, child care, and pension benefits.

The Government enforced gender segregation in most public spaces and prohibited women from mixing openly with unmarried men or men not related to them. Women must ride in a reserved section on public buses and enter public buildings, universities, and airports through separate entrances. Women were prohibited from attending male sporting events, although this restriction did not appear to be enforced universally. While the enforcement of conservative Islamic dress codes varied, what women wore in public was not entirely a matter of personal choice. The authorities sometimes harassed women if their dress or behavior was considered inappropriate, and women may be sentenced to flogging or imprisonment for such violations (*see* Section 1.c.). The law prohibits the publication of pictures of uncovered women in the print media, including pictures of foreign women. There are penalties for failure to observe Islamic dress codes at work.

Children.—There is little current information available to assess Government efforts to promote the welfare of children. Except in isolated areas of the country, children had access to free education through the 12th grade (compulsory to age 11) and to some form of health care. Health care generally is regarded as affordable and comprehensive with competent physicians.

In December 2003, the Government enacted the Law on Protection of Children and Youth. This law prohibited abuse or harassment of children or youth in any manner and outlawed buying, selling, exploiting, or employing children to engage in illegal acts such as smuggling.

There was not enough information available to reflect how the Government dealt with child abuse (*see* Sections 6.c. and 6.d.).

Trafficking in Persons.—In August, the Government enacted the Law on Combating Human Trafficking, defining and setting punishments for trafficking in persons. However, there were widespread reports that persons were trafficked to, through, and from the country during the year. It was difficult to measure the extent of the Government's efforts to curb human trafficking, but national and international press reporting indicated that the Government has taken action against bandits involved in abducting women and children and pursued agreements with neighboring states to curb human trafficking. The Government also reportedly has arrested, convicted, and executed numerous human trafficking offenders. During the year, police reportedly arrested numerous members of prostitution rings and closed brothels.

In April 2003, a court in Mashhad reportedly sentenced 53 individuals to 281 years in prison and 222 lashes on charges of abduction and slavery for trafficking scores of young girls to Pakistan.

Persons With Disabilities.—In May, the Majlis passed a Comprehensive Law on the Rights of the Disabled; however, subsequent media reports indicate that there has been no implementing regulation. There was no current information available regarding whether the Government has legislated or otherwise mandated accessibility for persons with disabilities, or whether discrimination against persons with disabilities is prohibited; nor is there any information available on which government agencies are responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The Kurds continued to suffer from government discrimination. Suspicions of Kurdish separatist or foreign sympathies have led to sporadic outbreaks of fighting between government forces and Kurdish groups. In recent years, greater Kurdish cultural expression has been allowed and Kurdish publications and broadcasting have expanded. However, there was still no public school education in the Kurdish language.

The KDPI claimed that the Government executed at least three Kurdish party members and activists during the year and four during 2003. According to KDPI, plainclothes vigilantes in five separate attacks killed seven more Kurds in 2003 (*see* Section 1.a.). Other activists reportedly were imprisoned.

Azeris comprise approximately one-quarter of the country's population and are well integrated into the Government and society. However, Azeris complained of ethnic and linguistic discrimination, including banning the Azeri language in schools, harassing Azeri activists or organizers, and changing Azeri geographic names. The Government traditionally viewed Azeri nationalism as threatening, particularly since the dissolution of the Soviet Union and the creation of an independent Azerbaijan. Azeri groups also claimed that there were a number of Azeri political prisoners jailed for advocating cultural and language rights for Iranian Azerbaijanis. The Government has charged several of them with "revolting against the Islamic state."

Foreign representatives of the Ahwazi Arabs of Khuzistan, whose numbers could range as high as 4 million or more, claimed that their community in the southwest of the country suffered from discrimination, including the right to study and speak Arabic. In July 2003, authorities reportedly closed two bilingual Arabic/Farsi newspapers and imprisoned scores of political activists. They asserted that the Government ignored their appeals to de-mine the vast stretches of Khuzistan, mined during the Iran-Iraq War. They further stated that many Arabs, both Shi'a and Sunni, have been imprisoned and tortured for criticizing government policies. According to Ahwazi sources, a political activist with the Islamic Wafagh Party, Kazem Mojaddam, was sentenced to 2 years' imprisonment in November 2003 after his initial arrest in June 2003 on charges of secession and endangering internal security.

Other Societal Abuses and Discrimination.—The law prohibits and punishes homosexuality. The punishment of a non-Muslim homosexual is harsher if the homosexual's partner is Muslim.

According to late 2003 estimates by a prominent local physician, there are approximately 25,000 to 30,000 HIV positive citizens; a 2001 estimate suggested an adult prevalence rate of less than 0.1 percent. There is a free anonymous testing clinic in Tehran. The Government supported the creation of an HIV awareness film to show in schools and has not interfered with private HIV-related NGOs. Nevertheless, persons infected with HIV were discriminated against in schools and workplaces.

Section 6. Worker Rights

a. The Right of Association.—The Labor Code provides workers the right to establish unions; however, the Government did not allow independent unions to exist. A national organization known as the Workers' House was the sole authorized national labor organization. It served primarily as a conduit for the Government to exert control over workers. The leadership of the Workers' House coordinated activities with Islamic labor councils, which were made up of representatives of the workers and a representative of management in industrial, agricultural, and service organizations of more than 35 employees. These councils also functioned as instruments of government control, although they frequently were able to block layoffs and dismissals.

The Labor Code allows employers and employees to establish guilds. The guilds issued vocational licenses and helped members find jobs. Instances of late or partial pay for government workers reportedly were common.

b. The Right to Organize and Bargain Collectively.—Workers did not have the right to organize independently and negotiate collective bargaining agreements. The International Confederation of Free Trade Unions (ICFTU) noted that the Labor Code was amended in 2003 to permit workers to form and join "trade unions" without prior permission if registration regulations are observed. The Ministry of Labor must register the organization within 30 days.

In January 2003, the Supreme Council of Labour, composed of representatives of Islamic labor councils, employers, and the government, exempted workshops of 10 employees or less from labor legislation. According to the ICFTU, this decision affected over 400,000 workshops of the total of 450,000 in the country.

The law prohibits public sector strikes, and the Government did not tolerate any strike deemed to be at odds with its economic and labor policies; however, strikes occurred. There are no mechanisms to protect workers rights in the public sector, such as mediation or arbitration. In addition to strikes, there were also work stoppages and protests by oil, textile, electrical manufacturing, and metal workers, as well as protests by the unemployed. There were strikes, such as that by copper factory workers (*see* Section 1.a.), and other labor stoppages in protest of issues such as nonpayment of salaries.

In December, textile workers in the city of Sanandaj struck to seek the re-hiring of laid off workers, a healthier work environment, cancellation of the practice of hiring temporary workers, and revising the regulations concerning factories' discipline committees.

In May, the ICFTU reportedly placed a formal complaint with the U.N. International Labor Office regarding the arrest of 40 workers during a Labor Day march in Saqez (*see* Section 2.b.).

In May 2003, textile workers in Behshar staged a hunger strike to protest nonpayment of overdue wages. Teachers staged demonstrations and sit-ins in several cities during the year for improved working conditions and wage benefits.

It is not known whether labor legislation and practice in the export processing zones (EPZs) differ from the law and practice in the rest of the country. According to the ICFTU, labor legislation did not apply in the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The Penal Code provides that the Government may require any person who does not have work to take suitable employment; however, this did not appear to be enforced regularly. The law prohibits forced and bonded labor by children; however, this was not enforced adequately, and such labor by children was a serious problem (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits forced and bonded labor by children; however, there appears to be a serious problem with child labor (*see* Section 5). The Labor Law prohibits employment of minors less than 15 years of age and places restrictions on the employment of minors under age 18; however, laws pertaining to child labor were not enforced adequately. The law permits children to work in agriculture, domestic service, and some small businesses. The law prohibits the employment of women and minors in hard labor or night work. Information regarding the extent to which these regulations were enforced was not available.

e. Acceptable Conditions of Work.—The Labor Code empowers the Supreme Labor Council to establish annual minimum wage levels for each industrial sector and region; however, no information was available regarding mechanisms used to set wages. It was not known if the minimum wages were adjusted annually or enforced. The Labor Code stipulates that the minimum wage should be sufficient to meet the living expenses of a family and should take inflation into account. However, under poor economic conditions, many middle-class citizens must work at two or three jobs to support their families.

The Labor Code establishes a maximum 6-day, 48-hour workweek, with a weekly rest day, normally Fridays, and at least 12 days of paid annual leave and several paid public holidays.

According to the Labor Code, a Supreme Safety Council, chaired by the Labor Minister or his representative, is responsible for promoting workplace safety and health. Labor organizations outside the country have alleged that hazardous work environments were common in the country and have resulted in thousands of worker deaths per year. It was not known how well the Ministry's inspectors enforced regulations. It was not known whether workers could remove themselves from hazardous situations without risking the loss of employment.

IRAQ

Coalition-led forces overthrew the Ba'athist regime of Saddam Hussein in April 2003.[1] As recognized in U.N. Security Council Resolutions (UNSCR) 1483, 1511, and 1546, an Interim Administration—the Coalition Provisional Authority (CPA)—administered the country until an internationally recognized, representative government was established. The Iraqi Governing Council (IGC), recognized by UNSCR 1500 as the principal body of the Iraqi interim administration during the period of the CPA, adopted the Law for the Administration of the State of Iraq for the Transitional Period—the Transitional Administrative Law (TAL)—on March 8, and the new Iraqi Interim Government (IIG), consistent with UNSCR 1546, assumed full governmental authority on June 28. The TAL set forth a transitional period, to end upon the formation of an elected government pursuant to a permanent constitution. On August 15–18, the National Conference convened and elected a 100-member Interim National Council. Elections for the Transitional National Assembly, the country's legislative authority and the first step in the formation of the Iraqi Transitional Government, were scheduled to take place on January 30, 2005.

The TAL established a republican, federal, democratic, and pluralistic system with powers shared among the federal and regional governments, including 18 governorates, as well as municipalities and local administrations. The Kurdistan Regional Government was recognized in the TAL as the official government of those territories that were administered by the Kurdish Regional Government on March 19, 2003 in the governorates of Dohuk, Arbil, Sulaimaniya, Kirkuk, Diyala, and Ninewah. Islam is the official religion of the State and, according to the TAL, is to be considered a source of legislation. The TAL also mandates the separation and independence of the legislative, executive, and judicial branches of the Government. Some aspects of the judicial system were dysfunctional and, at times, subject to external influence.

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[1] The 2004 report covers the human rights record of the Interim Government from June 28 to December 31, 2004.

Domestic security responsibilities are shared within the IIG between the Ministry of Interior (MOI) and the Ministry of Defense. As set forth in the TAL, certain elements of the Iraqi Armed Forces are under the operational control of the Multi National Coalition Force (MNF-I) operating in the country under unified command pursuant to UNSCR 1546, and some also have domestic security responsibilities. MOI forces also partner with MNF-I to ensure a coordinated approach to security within the country. The MOI's responsibilities extend only to internal security. The MOI commands a number of uniformed forces, including the Iraqi Police Service, the Department of Border Enforcement, and the Bureau of Dignitary Protection, as well as the MOI Intelligence Service. Among its other responsibilities, the MOI also regulates private domestic and foreign security companies. While civilian authorities generally maintained effective control of security forces under their authority, there were instances in which security force elements acted without government authority. There were reports that members of the MOI's security forces committed numerous, serious human rights abuses.

The country has an estimated population of 25 million, although no reliable census has been undertaken for several years. The former regime owned all major industries and controlled most of the highly centralized economy. The economy is likely to remain heavily dependent on revenues from oil exports and international assistance for the foreseeable future. Reforms under the CPA introduced many market concepts; however, state-owned enterprises still played a significant role in the economy. The Iran-Iraq and Gulf wars, combined with gross mismanagement and corruption, damaged the economy, and the country was subject to U.N. sanctions from its 1990 invasion of Kuwait until the suspension of sanctions following the fall of the Ba'ath regime. Serious security problems significantly slowed reconstruction activities. During the year, official estimates of unemployment ranged between 20 and 30 percent. Government officials estimated that the rate of underemployment was roughly equivalent to joblessness. Anecdotal reports suggested that approximately half the working-age population was unemployed.

The Interim Government, reversing a long legacy of serious human rights abuses under the previous regime, generally respected human rights, but serious problems remained. During the period of the report, the Government's human rights performance was handicapped by a serious insurgency in which a terrorist campaign of violence impacted every aspect of life with executions, kidnappings, torture, and intimidation waged against civilians, the Government and Coalition Forces. Although this insurgency may have had popular support in some areas, its core was former regime elements, foreign and domestic terrorists, and organized criminal gangs. On November 7, Prime Minister Iyad Allawi declared a 60-day state of emergency limited to Ramadi and Fallujah, in accordance with the July 6 IIG "Order of Safeguarding National Security." The state of emergency provides broad powers to impose curfews, close off entire towns and cities, take command of intelligence and security forces, and restrict assembly and movement. It remained in effect at year's end.

With the ongoing insurgency limiting access to information, a number of instances in the Report have been difficult to verify. However, there were reports of arbitrary deprivation of life, torture, impunity, poor prison conditions—particularly in pretrial detention facilities—and arbitrary arrest and detention. There remained unresolved problems relating to the large number of Internally Displaced Persons (IDPs). Corruption at all levels of the Government remained a problem. Some aspects of the judicial system were dysfunctional, and there were reports that the judiciary was subject to external influence. The exercise of labor rights remained limited, largely due to violence, unemployment, and maladapted organizational structures and laws; however, with international assistance, some progress was underway at year's end.

Civic life and the social fabric remained under intense strain from the insurgency, as well as from a continuing shortage of basic services and staples. Despite this pressure, the IIG in 6 months set and kept to a legal and electoral course based on respect for political rights. This included most importantly the right of citizens to change peacefully their government through nationwide, free, and fair elections. The development of a Human Rights Ministry, the ongoing empowerment of women, and the explosive growth of nongovernmental organizations (NGOs) and civic associations reflected a governmental commitment to human rights. The Government's success in building an accommodating structure for the exercise of civil liberties, although burdened by the heritage of dictatorship and disregard for law, was shown clearly in the citizens' embrace of freedoms of speech and press, peaceful assembly, and association and religion. While major problems still remained, they were of a far different magnitude and nature than previously.

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

a. Arbitrary or Unlawful Deprivation of Life.—With the ongoing insurgency, there was a climate of extreme violence in which persons were killed for political and other reasons. There were occasional reports of killings particularly at the local level by the Government or its agents, which may have been politically motivated. In early December, Basrah police reported that officers in the Internal Affairs Unit were involved in the killings of 10 members of the Ba'ath Party. Basrah police also reported that the same Internal Affairs Unit officers were involved in the killings of a mother and daughter accused of engaging in prostitution. The Basrah Chief of Intelligence was removed from his position as a result of the accusations; however, he retained command of the Internal Affairs Unit. An MOI investigation into the Basrah allegations was ongoing at year's end. Other instances reflected arbitrary actions by government agents. For example, on October 16, Baghdad police arrested, interrogated, and killed 12 kidnappers of 3 police officers.

Insurgents killed thousands of citizens (*see* Section 1.g.). In a terrorist campaign of violence and intimidation, they targeted, kidnapped and killed foreigners, government officials and workers, security forces, members of the armed forces, and civilians suspected of collaborating with the Coalition.

Insurgent and terrorist groups also claimed responsibility for the bombings of churches, government facilities, public gathering spots, and businesses. These actions resulted in a massive loss of life and grave injuries. There were no indications of government involvement in these acts.

Until its fall in 2003, the former regime was responsible for the disappearance, murder, and torture of persons suspected of or related to persons suspected of oppositionist politics, economic crimes, military desertion, and a variety of other activities. The discovery of mass graves (considered to be unmarked sites containing at least six bodies) provided evidence of the vast dimension of these practices. Immediately following the fall of the regime and throughout the remainder of 2003, mass graves were reported from sources throughout the country. During this reporting period, 189 mass graves were confirmed, and investigators continued to review evidence on additional mass graves.

Grid coordinates were obtained on at least 10 mass graves in Al Hatra in Ninewah Province. On September 1, authorities began to dig a site near Al-Hatra. Two gravesites were excavated; one site contained the remains of women and children and the other contained remains of men. Approximately 275 bodies—thought to be Kurds who were killed by the former regime—were found in each site.

Sites were discovered in all regions and contained remains of members of every major religious and ethnic group in the country, as well as of foreign citizens. Graves contained forensic evidence of atrocities, including signs of torture, decapitated or mutilated corpses, or evidence that some victims were shot in the head at close range.

During the year, the Ministry of Human Rights strengthened efforts to help relatives learn the fate of their family members under the regime, including those found in mass graves, and created its national bureau of missing persons, the National Center for Missing and Disappeared Persons.

b. Disappearance.—There were no reports of politically motivated disappearances associated with the Government.

Due to the ongoing insurgency and the opportunities for common crime, as well as politically motivated kidnapping (*see* Section 1.g.), kidnapping and disappearances remained an ongoing problem. Many hundreds, if not thousands, of individuals disappeared without a trace. The widespread and ongoing nature of these disappearances precluded the availability of reliable statistics.

There were many reports of disappearances dating from the former regime of a large number of citizens. In 2003, human rights organizations widely believed that the former regime had executed as many as 300,000 civilians and probably more. Several of these organizations held the view that as many as 1.3 million persons were missing from the country as a result of wars, executions, and defection.

To date, the authorities, assisted by various Coalition officials, have identified through DNA analysis the remains of 322 missing Kuwaitis whose corpses were found in mass graves.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The TAL expressly prohibits torture in all its forms under all circumstances, well as cruel, inhuman, or degrading treatment.

According to Human Rights Watch (HRW), during this reporting period, torture and ill treatment of detainees by police was commonplace. In interviews with 90

prisoners conducted from August to October, 72 claimed that they had been tortured or mistreated. The reported abuses included some instances of beatings with cables and hosepipes, electric shocks to their earlobes and genitals, food and water deprivation, and overcrowding in standing room only cells.

Additionally, HRW reported that specialized agencies, including the Major Crimes Unit, Criminal Intelligence, Internal Affairs and possibly the Intelligence Service, were responsible for pretrial irregularities, such as arrest without warrant, lengthy periods of detention before referral to an investigative judge, and the denial of contact with family and legal counsel. Although detainees were primarily criminal suspects, they also included others, such as members of the Mahdi Militia and juveniles, who sometimes were caught in arrest sweeps.

There were instances of illegal treatment of detainees. For example, on November 1, Baghdad police arrested two Coalition Force citizen interpreters on charges involving the illegal use of small arms. After their arrest, police bound the detainees' arms behind them, pulling them upward with a rope and cutting off their circulation. This treatment was followed by beatings over a 48-hour period with a steel cable, in an effort to make the detainees confess. Both interpreters required medical treatment after their release to Coalition Forces. No further information on the incident was available at year's end. In another case, the Commission on Public Integrity (CPI) gathered enough evidence to prosecute police officers in Baghdad who were systematically raping and torturing female detainees. Two of the officers received prison sentences; four others were demoted and reassigned.

There were also allegations that local police sometimes used excessive force against both citizens and foreigners. On November 28, a foreign national reported that police beat him at a police station in Kufa. According to the victim, he witnessed police beating detainees at a police station while he was filing a claim on another matter. When he questioned the treatment of the detainees, he was beaten and detained for 4 hours.

A number of complaints about Iraqi National Guard (ING) abuses surfaced during the year. For example, in November, the ING raided a house in southern Baghdad and arrested four alleged insurgents. The family was evicted and the ING burnt the house. In another incident, a doctor at the al-Kindi hospital in Baghdad said that the ING had tried to force him to treat one of their colleagues before other more serious cases. When he refused, they beat him. There also were many reported instances of ING looting and burning houses in Fallujah in November.

According to an ING official, disciplinary procedures were in place to deal with the mistreatment of citizens and a number of members of the ING were fired during the year for violations.

There were numerous reports and direct evidence that insurgents employed multiple forms of torture and inhumane treatment against their victims (*see* Section 1.g.).

Although there was significant improvement in Iraqi Corrections Service (ICS) prison conditions following the fall of the former regime, in many instances the facilities did not meet international penal standards. According to the Government, it generally permitted visits by independent human rights observers. In August, the International Committee of the Red Cross (ICRC) visited ICS facilities. The Ministry of Human Rights established a permanent office at the Abu Ghraib prison. HRW visited some ICS facilities.

After the fall of the former regime, prison functions were consolidated into the Ministry of Justice, and the ICS was transferred from the Ministry of Labor and Social Affairs to the Ministry of Justice. According to the Government, ICS confined civilians under the rule of law, and a valid confinement order from a judge was required. Confinement was not connected with military intelligence operations nor was there any contact with military confinement functions.

Allegations of inmate abuse by ICS Officers continued, although fewer than in the previous year. The ICS Internal Affairs Division claimed it conducted investigations of all detected or reported cases and that appropriate corrective action was taken if an allegation was verified. Although fewer than 10 cases were investigated between July and December, an individual with access to human rights complaints alleged that hundreds of cases were pending accusing ICS officers of abuse and torture of detainees and prisoners, including women. No further information was available at year's end.

At year's end, ICS was investigating eight cases in which inmates alleged police predetention abuse and torture.

Overcrowding was a problem. Inmate disturbances and riots reduced available prison beds by approximately one-third, and pretrial detention facilities were often overcrowded. The insurrections in Sadr City and later in Najaf created additional overcrowding in detention facilities.

ICS operated 17 facilities, totaling 8,500 beds. Renovation and construction on an additional 6 facilities, totaling 6,000 beds, was underway at year's end. No inmates died during the period under review due to poor conditions of confinement or lack of medical care, although the quality of care was low.

ICS operated both pretrial detention facilities and post-trial prisons across the country. The law provides that police, may detain prisoners for 24 hours during which time a magistrate must review the case. If the magistrate orders continued confinement, the prisoner is transported to an ICS detention facility to await trial.

The law provides that women and juveniles be held separately from men; according to HRW interviews, juveniles were confined with adults in some cases.

All of the ICS personnel were required to undergo training. An 8-week course including instruction in basic human rights, rights of women and children, trafficking in persons, prohibition against torture, international corrections standards, integrity issues, professional ethics, and code of conduct was mandatory for the 4,000 ICS correctional officers.

d. Arbitrary Arrest or Detention.—Under the 1971 Code of Criminal Procedure, as amended by the CPA, an individual suspected of a crime may be arrested only on a judicial warrant, except when the police observe a crime taking place or have reasonable grounds to suspect such acts. The law provides that, in any case, detainees must see an investigating judge within 24 hours.

Detainees were generally retained in custody pending the outcome of a criminal investigation. Individuals were generally arrested openly and warrants were issued only with sufficient evidence, although, there were numerous reports of arbitrary arrest and detention

There were no publicized cases of criminal proceedings brought against members of the security forces in connection with alleged violations of these rights, nor were there publicly known measures adopted to prevent recurrence.

Due to the insurgency, high-crime rates, and limited police training, innocent persons were sometimes arrested and detained erroneously.

The MOI's responsibilities extended only to internal security. MOI commands a number of uniformed forces, including the Iraqi Police Service (IPS) and Department of Border Enforcement. The MOI also has criminal and domestic intelligence capabilities and regulates all domestic and foreign private security companies operating in the country. The MOI also has authority over the Civil Defense Directorate, the firefighters and emergency response organization, and the Facilities Protection Service shielding strategic infrastructure, government buildings, and cultural and educational assets.

In the aftermath of the fall of the former regime, a police presence temporarily vanished, except in the Kurdish North. Police equipment was stolen. After April 2003, a large recruitment and training program was established, including hiring former police officers.

During the year, various specialized units were created, including an Emergency Response Unit (with capabilities similar to a SWAT team) and Public Order Battalions that perform riot control functions, as well as specialized counterinsurgency units.

More than any other group, the police have been a target of terrorist attacks. Over 1,500 IPS personnel have been killed between April 2003 and year's end. Additionally, pervasive lawlessness has led to an increase in violent and organized crime, particularly related to kidnappings (*see* Section 1.g.).

Detainees generally were informed of the charges against them, although sometimes with delay.

There was a widespread perception that police made false arrests to extort money. Some police officers did not present defendants to magistrates and held them in detention cells until their families paid bribes for their release. In the Central Criminal Court in Baghdad, the time between arrest and arraignment was often in excess of 30 days, despite the 24-hour requirement.

There were organized police abuses. For example, on September 4, approximately 150 police, none of whom had uniforms or badges, surrounded the Iraqi Institute of Peace (IIP), which is associated with the International Center for Reconciliation of the Coventry Cathedral, in response to an alert that a prominent former regime figure might be inside the Cathedral. Four individuals identified themselves as MOI officials, but did not show badges. Armed men, some with heavy weapons, broke down the doors and ransacked the IIP building, stealing phones and money. The incident ended with no serious injuries but without judicial follow-up.

On August 16, a ministry, reportedly wishing to occupy the real property used by a political party, caused party members to be arrested and detained for almost 60 days without charges. During their detention, a habeas corpus writ from the Chief

Investigative Judge of the Central Criminal Court was ignored. The minister involved also refused to appear before the judge to explain his ministry's actions. The political party members were eventually released; however, the property involved remained under the control of the ministry at year's end.

Reportedly, coerced confessions and interrogation continued to be the favored method of investigation by police. According to one government official, hundreds of cases were pending at year's end alleging torture. There have been several arrests, and both criminal and administrative punishments were handed out to police in cases where allegations of torture were substantiated.

Additionally, corruption continued to be a problem with the police. The CPI was investigating cases of police abuse involving unlawful arrests, beatings, and the theft of valuables from the homes of persons who were detained; however, the police often continued to use the methods employed by the previous regime. In addition to the CPI, several other mechanisms were put into place to address this problem, including an internal affairs capability, mentoring, and training programs that focus on accountability.

Efforts to increase the capacity and effectiveness of the police were ongoing; however, there was little indication that the IIG took sufficient steps to address this problem adequately or to reinforce publicly the message that there will be no climate of impunity.

Because of arbitrary arrest and detention practices, some prisoners were held in incommunicado detention.

Pursuant to the Code of Criminal Procedure, the judge who issues an arrest warrant sets the bond conditions. If no conditions of release are specified, the accused is detained. The most common bond condition is that an accused is released into the custody of a responsible individual (such as family member or tribal leader), who will vouch that the individual will appear at a future court hearing.

Judges are authorized to appoint counsel for those who cannot pay, and did so, according to observers of proceedings in the Central Criminal Court in Baghdad. Attorneys were provided with private accommodations during official visits to their clients.

Lengthy pretrial detention continued to be a significant problem due to backlogs in the judiciary and slow processing of criminal investigations. Approximately 3,000 inmates were in pretrial detention, and 1,000 were held post-trial.

In August, the IIG issued a national amnesty for insurgents who had not committed any major crime, including murder, rape, robbery, or abduction. Local amnesties continued to be offered in the context of specific local security arrangements.

e. Denial of Fair Public Trial.—The TAL provides for an independent judiciary; however, there has not been sufficient experience to determine in practice its independence. Senior levels of the Government expressed commitment to this provision.

According to the TAL, all persons are equal before the courts and no individual may be deprived of life or liberty except in accordance with legal procedures. No one may be unlawfully arrested or detained, and no one may be detained by reason of political or religious beliefs.

The TAL provides for the right to a fair trial and the judiciary generally sought to enforce this right. The accused is innocent until proven guilty pursuant to the law, and has the right to engage independent and competent counsel, remain silent in response to questions, and to summon and examine witnesses or ask that a judge do so.

The criminal justice system is based on the French or civil system. It was modified under the Ottoman Turks and greatly influenced by Egypt. The system is inquisitorial; cases are controlled and investigated by the judiciary. Judges, not lawyers, direct the progress of a case. After the fall of the former regime, parallel court systems were abolished and all criminal and civil judicial functions were consolidated into the Ministry of Justice-controlled courts. Thereafter, the Ministry underwent numerous changes, banning judges and administrators linked to the former regime's judicial practices in an effort to strengthen the rule of law. The laws continued to be reviewed to ensure that they meet international human rights standards. Tribal leaders routinely applied Shari'a law in settling disputes.

The courts are geographically organized into 17 appellate districts. There are two types of criminal courts—misdemeanor and felony. Cases are presented to the court in the district where the crime took place. Under the law, a criminal defendant must be presented to an investigative judge within 24 hours of arrest. The investigative judge controls the investigation and recommends charges if sufficient evidence has been discovered. A trial and sentencing is generally a very short process. Witnesses who are not present have their statements read into the record.

There is no jury in the criminal justice system. A three-judge panel decides if a defendant is guilty. Defendants who are found guilty are sentenced immediately after the verdict. Prosecutors and defense counsel are permitted to question witnesses during the proceeding. In practice, they often asked few, if any, questions due to the questioning that has already occurred by the investigative or trial judges. The prosecutors and defense counsel routinely gave initial and final statements to the court. Cases can be appealed to the appellate court and then to the Court of Cassation.

The Council of Judges (COJ) is responsible for all matters relating to the courts. The chief appellate judge of each district, along with several judges from the Court of Cassation, comprises the COJ. The COJ is responsible for the administration of the judiciary, and the Chief Judge manages the day-to-day administrative responsibilities of the COJ, specifically, court facilities, staff, and security. In the event of misconduct involving judges, the COJ convenes a disciplinary hearing to determine the merits of the allegations. During this reporting period, the COJ convened a disciplinary hearing concerning the allegation that a Baghdad judge dismissed criminal cases due to external influence. Pending resolution of this allegation, the judge was removed from office and an investigation was ongoing at year's end. The COJ was very powerful and there were allegations that the Executive Branch influenced the COJ.

The law provides for civilian judges to be designated to sit as a separate military court for members of the military. Although 20 judges were so designated, no military trials occurred during this reporting period.

Corruption remained a problem in the criminal justice system. In the fall, the MOI referred allegations of misconduct involving a judge to the COJ. The allegations concerned professional misconduct, including bribery. At year's end, this case was still pending (*see* Section 3).

In 2003, the IGC created the Iraqi Special Tribunal (IST) to try persons accused of committing certain specified crimes during the time period from July 17, 1968 through May 1, 2003. The IST's jurisdiction includes war crimes, genocide, crimes against humanity, and specified offenses under the country's law. The IST will try those accused of these crimes. Investigative hearings were ongoing at year's end against multiple defendants, however, indictments had not been issued, and trials had not begun.

The Iraq Property Claims Commission (IPCC) was established on January 14 as an independent governmental commission designed to resolve claims for real property that was confiscated or otherwise taken for less than fair value between July 17, 1968, and April 9, 2003. This included land and buildings (not personal property) seized because the policies of the former regime did not include land reform or lawfully applied eminent domain. The statute establishing the IPCC was amended in June to extend the time limits for the filing of claims until June 30, 2005, thus allowing claims from "Arabization Arabs" and Kurdish peoples whose property was forcibly taken between March 18, 2003, and June 30, 2005 (*see* Section 2.d.).

The IPCC comprised approximately 700 employees in offices located in all 18 governorates. Regional commissions consider claims on the basis of the documentation made available either by the claimant or through the relevant government offices.

The IPCC accepted over 37,000 claims during this reporting period more than 600 cases had been adjudicated and over 150 appeals filed as of year's end.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The TAL prohibits such actions, and the Government generally respected these prohibitions in practice, although in some instances, the security forces reportedly did not. The law provides for the right to privacy, and police, investigators, or other governmental authorities may not violate the sanctity of private residences without a search warrant issued in accordance with the applicable law unless reasonable suspicion exists that criminal activity is in progress or, which rarely occurs, when such an action is deemed critical to national security. Generally, police complied with legal warrant requirements; however, there were reports that these rights were sometimes not respected.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—During the period of the report, insurgents and foreign terrorists continued their attacks. The core of the insurgency, although it may have had some popular support in some areas fueled by fears deriving from political grievances and ethnic and religious tensions, was composed of former regime elements, foreign and domestic terrorists, and organized criminal gangs. Their actions resulted in killings, kidnappings, violence, torture, and a campaign of intimidation. On November 7,

Prime Minister Allawi declared a 60-day state of emergency limited to Ramadi and Fallujah. The state of emergency provided broad powers to impose curfews, close off entire towns and cities, take command of intelligence and security forces, and restrict assembly and movement. It remained in effect at year's end.

The insurgents targeted anyone whose death or disappearance would profit their cause and, particularly, anyone suspected of being connected to Coalition Forces.

Bombings, executions, killings of government officials, kidnappings, shootings, and intimidation were a daily occurrence throughout all regions and sectors of society. An illustrative list of these attacks, even a highly selective one, scarcely could reflect the broad dimension of the violence.

On September 30, an Islamist website, linked to the Unification and Jihad Group, posted a message claiming responsibility for three suicide attacks, one of which resulted in the deaths of dozens of civilians—most of them children—attending the opening of a sewage plant in Baghdad. On October 25, ING recruits, returning home on a bus after completing their training at the Kirkush military camp northeast of Baghdad, were killed. Abu Musab al-Zarqawi claimed responsibility for the killings. Thirty-seven bodies were found on the ground with their hands behind their backs, killed execution-style. Another 12 bodies were found in a burned bus. On November 1, unknown assailants gunned down Hatem Kamel Abdul Fatah, the deputy governor of Baghdad, as he was driving to work. The following day, a car bomb exploded near the Ministry of Education, killing at least six persons and wounding eight others. On November 20, women's rights activist Dr. Amal Ma'amalchi and four of her colleagues were shot and killed in their vehicle on their way to work at the Ministry of Municipalities and Public Works. On December 19, violence in 2 Shi'a holy cities killed at least 60 and wounded more than 120. A suicide bomber set off a blast at Karbala's main bus station, which was followed by a car bomb during a funeral procession in Najaf an hour later.

According to the Ministry of Human Rights, at least 80 professors and 50 physicians were assassinated during the year. Reporters Without Borders noted that 31 journalists and media assistants were killed during the year (*see* Section 2.a.). Universities also suffered from a wave of kidnappings. Researchers, professors, administrators, and students were all victims, including some who disappeared without a trace. Since the beginning of the insurgency, more than 150 foreigners have been kidnapped, and many were killed. In addition to the more publicized cases, ordinary civilians were also wounded and killed.

Terrorists systematically damaged and destroyed the infrastructure—oil, electricity, and transportation lines—reducing the movement and availability of key services and goods to the population. They attacked a Baghdad hospital on November 8, killing 7 and wounding 30.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The TAL protects the freedoms of speech and the press, and the Government generally respected these rights in practice. There are transparent licensing procedures for broadcast media, and the written press does not require a license to operate.

There were over 130 daily and weekly publications, and private local television stations broadcast in Arabic, Kurdish, and Syriac. The media represented a very wide range of viewpoints from across the political spectrum. Foreign journalists generally operated without legal or bureaucratic hindrance. However, on August 7, the IIG banned the Qatar-based Al-Jazeera news channel from working in the country for 30 days. Prime Minister Allawi, citing an Iraqi Communication and Media Commission report as a basis for the ban, accused the station of inciting violence and hatred. Nonetheless, during this unenforced suspension, ministers and the Vice President appeared, on the station, which continued to function in the country by using free-lance journalists. They also bought reports and footage from other satellite networks. The IIG extended the temporary suspension indefinitely on September 7.

According to Reporters Without Borders, 31 journalists and media assistants were killed during the year as a result of the ongoing insurgency. The Al-Arabiya television network reported on November 1 that five of its citizen employees had been killed after a car bomb exploded near its offices.

Canadian, French, British, American, and Iraqi journalists were kidnapped and released during the period of the report. The Islamic Army in Iraq and Muqtada al-Sadr's group were among the identified kidnappers.

On August 15, police ordered all unembedded journalists to leave the city of Najaf, where Coalition and Iraqi forces had been fighting supporters of Muqtada al-Sadr. The police cited concerns about the journalists' safety for the order, but many journalists ignored it. Police rounded up 60 foreign and Arab journalists at gunpoint

on August 25 and brought them to police headquarters, where they were later released.

Foreign news broadcasts, including Al-Jazeera, were not jammed. There were no restrictions on content or access to books, periodicals, mass media of any sort, satellite dishes, computers, modems, faxes, and Internet services. The authorities formally respected academic freedom.

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

Many demonstrations, which often proved to be a cover for insurgent violence, took place countrywide. According to the Government, the MOI did not break up any peaceful violations, except when a curfew was violated.

c. Freedom of Religion.—The TAL provides for freedom of thought, conscience, and religious belief and practice. The Government generally respected these rights in practice; however, there was substantial politically and religiously driven violence between Sunni and Shi'a (*see* Section 1.g.) and against Christians. Despite cases of religious intolerance and terrorism against citizens of different faiths and their places of worship, there were clerics and other religious leaders who called for tolerance. On November 18, the IIG issued a statement condemning violence against religious groups and calling for unity among Christians and Muslims.

An estimated 97 percent of the population is Muslim, predominantly Shi'a (60–65 percent) with a substantial Sunni minority (32–37 percent). The remaining approximately 3 percent consist of Christians—Chaldeans (Roman Catholic), Assyrians (Church of the East), Syriac (Eastern Orthodox), Armenian Orthodox, several denominations of Protestant Christians—Yazidis, and a small number of Sabean Mandaeans and Jews.

Sunni-Shi'a violence was widespread and often fueled by foreign extremists. On December 4, a suicide bomber blew himself up near a Shi'a mosque located in the Sunni Muslim district of Al-Adhamiya in Baghdad, killing 16 people and wounding over a dozen others. Zarqawi's organization, Group of Jihad in the Country of Two Rivers, claimed responsibility for the bombing.

On November 23, masked gunmen assassinated a Sunni cleric north of Baghdad. Sheikh Ghalib Ali al-Zuhairi was a member of the Association of Muslim Scholars, an influential Sunni clerics group. He was shot while leaving a mosque in the town of Muqdadiyah and died in the local hospital.

There were numerous incidents of violence against the Christian community this year, ranging from individual killings to intimidation and assaults on women for not wearing a headscarf (hijab). Most of these incidences of violence were related to religion.

At the university in Mosul, Christian women boycotted classes during Ramadan in response to Islamist pressure for all women to cover their hair. The number of Christians leaving the country rose, after bombings of 14 churches in Baghdad and Mosul and the Chaldean Bishop's Palace in Mosul from August through December. The bombings left 43 dead and 340 injured, as well as damaging the churches. In the immediate aftermath of the August bombings, Grand Ayatollah Sistani condemned the attacks and reaffirmed the rights of Iraqi Christians. Christian leaders blamed foreign terrorists, including al-Qa'ida, for the attacks.

The Government's Christian Endowment Office reported that there were between 750,000 and 1 million Christians in the country, mostly in the North and Baghdad; there were 1.4 million in 1987. The majority of the country's Christians were Chaldeans. Christian religious leaders estimated that approximately 700,000 Christian citizens lived abroad.

According to the Christian Endowment Office, more than 30,000 Christian families fled the country during the year. Many remained in Jordan or Syria, hoping to return when the security situation improved. In November, a leaflet circulated to churches and some individual Christians in Baghdad ordered Christians to leave the country or convert to Islam

After the promulgation of the TAL in February, the former Governing Council addressed the question of whether Jewish expatriates would be allowed to vote in the 2005 elections. It announced that they would be treated like any other expatriate group. The Government also denied unfounded rumors (sometimes spread in flyers distributed by antigovernment extremist groups) that Jewish expatriates were buying up real estate in an attempt to reassert their influence in the country.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The TAL provides for these rights, and the Government generally respected them in practice.

On November 7, the Government announced a 60-day state of emergency starting November 8 in conjunction with the onset of major military operations in Fallujah.

The state of emergency, which applied to Ramadi and Fallujah, was based on the National Security Order adopted by the IIG on July 7 but not immediately implemented. It could be invoked anywhere in the country if citizens' lives were threatened by a persistent campaign of violence aimed at hindering the political process. Its duration cannot be more than 60 days, but it is renewable every 30 days if the threat continues.

Under the law and subject to judicial review, the prime minister has the power to restrict freedom of movement, assembly (pursuant to a court order), and use of weapons. Suspects can be detained and searched, and their homes and work places searched, but they must appear before a judge within 24 hours of arrest. He can impose a curfew, cordon off and search an area, freeze assets, monitor and seize communications, and take necessary security and military measures (in Kurdish areas, only in coordination with the Kurdish regional government).

The TAL expressly prohibits forced exile, and there were no known government restrictions on emigration, although exit permits were required for citizens leaving the country. Despite current legislation to the contrary, there were reports that some authorities continued to require that women between the ages of 12 and 40 receive approval of their husbands, fathers, or brothers before being issued a passport. Government officials strongly denied that there was a policy to this effect.

The International Organization for Migration (IOM) estimated that there were over 1.4 million IDPs in the country. The former regime was responsible for the displacement of more than one million persons. More than 225,000 persons, mostly Arabs displaced in Diyala and Salah El Din governorates, were estimated to have been displaced after April 2003. In November, the ongoing military conflict related to the insurgency resulted in the displacement of approximately 200,000 persons from Fallujah (*see* Section 4).

During the Saddam era, the vast majority of IDPs were non-Arabs (Kurds, Chaldo-Assyrians, and Turkmen). In the 1980s and early 90ss, these non-Arabs were forcibly relocated as part of the regime's "Arabization" process to make way for incoming Arab families around oil-rich Kirkuk and other northern areas. After the fall of the regime, displaced non-Arabs began returning to their former homes. In some instances, these returns resulted in displacement of Arabs who had been moved there by the regime.

Many Arabs, who were part of this Arabization process, either fled their homes during the war or were forced out or prevented from returning by Kurdish civilians and fighters who had returned to villages from which they had originally been displaced. Many remained in Kirkuk, in extremely poor conditions, to try to resolve their property disputes.

The IPCC accepted more than 37,000 claims property disputes. By year's end, some 600 cases had been adjudicated; however, successful claimants had not received any financial compensation by year's end (*see* Section 1.e.).

The Ministry for Displacement and Migration is responsible for all issues related to refugees and displaced persons, as well as failed asylum seekers and other irregular migrants. Due to poor security conditions and inadequate social infrastructure, the Ministry did not support the forced return of Iraqi citizens to the country. In addition to the poor security situation, there was a housing shortage estimated at between 1.4 and 2 million units. There were also inadequate education and health care facilities for the current population. The Ministry publicly stated its support to the principles of voluntary repatriation and underscored the importance of safe and dignified returns.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. However, the Government recognized a refugee population of an estimated 65,000 persons.

The Government cooperated with U.N. High Commission for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

During the year, refugees were targeted for attacks that were allegedly carried out by insurgents. On November 21, UNHCR officials reported that Syrian refugees in Baghdad were singled out for attack and that protection for Palestinian and Syrian refugees had deteriorated after the fall of the former regime. The physical safety of refugees from various groups (Palestinians, Syrian Ba'athists, and Ahwazis) was threatened by groups not affiliated with the Government; they were suspected of having received privileged treatment under the former regime. Landlords forcibly expelled some Palestinian refugees (395 families) who were living in rented apartments. In some instances, the expulsions were carried out with the use of firearms.

Syrian Ba'athists living in Baghdad also received threats, and some were forced to relocate. UNHCR noted cases of Palestinian and Syrian refugees who had been detained and faced severe treatment in prison.

UNHCR provided protection and assistance to both Syrian and Palestinian refugees through rental subsidies, other forms of material assistance, and legal representation.

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

The TAL provides citizens with the right to change their government peacefully through periodic, free, and fair elections based on universal suffrage. Elections at the national level were scheduled for January 30, 2005, to exercise this right.

The first step towards realizing the 2005 elections took place from August 15 to 18, when the National Conference elected the 100-seat Iraqi Interim National Council (IINC). Representative of the country's ethnic and national diversity, it was comprised of Arabs, Turkmen, Kurds, Assyrians, Chaldeans, and an Armenian, as well as a Mandean, Sunni and Shi'a Muslims, and Christians. The TAL provides for the election of women and minorities to the Transitional National Assembly, with a goal of having no less than one quarter of the representatives be women and of having fair representation of all communities. Some women's leaders, representing a broad spectrum of political views, expressed concern that some women were selected to participate in the political process—at both the local and national level—only to meet this quota and not necessarily based on their qualifications.

There were 25 women on the Interim National Council and 6 ministers in the Government: The Minister of State for Women's Affairs and the Ministers of Labor and Social Affairs, Agriculture, Displacement and Migration, Environment, and Public Works.

On July 9, in the first elections after the fall of the former regime, the municipal district of Al Zubair outside Basra city peacefully chose members of its municipal council.

The Independent Electoral Commission of Iraq (IECI) was established under CPA Order 92 and had sole responsibility for administering the January 2005 Elections. The IECI's mandate as an independent, autonomous, and nonpartisan government entity was to promulgate, implement, and enforce regulations, rules, and procedures in connection with elections during the transitional period.

During the year, the IECI continued to draft regulations to support the conduct of a free, fair, and transparent electoral process.

As election preparations began, regional IECI staff faced intimidation by rejectionists in areas of insurgent activity. IECI representatives and food agents delivering voter registration forms in Ninewah Province received death threats, many refused to participate in election-related activity, and provincial IECI offices were closed. In Anbar Province, violence and threats against election workers prevented establishment of voter registration centers and distribution of registration forms. The provincial IECI office in Diyala moved to a new location following threats and violence. Intimidation forced the temporary closure of seven registration centers in Baghdad. On December 19, three IECI workers were shot and killed on Baghdad's Haifa Street.

Political parties and candidates had the right freely to propose themselves or be nominated by other groups. The Government did not restrict political opponents nor did it interfere with their right to organize, seek votes, or publicize their views.

Political parties, both secular and nonsecular, that were active during the year included the Supreme Council for Islamic Revolution in Iraq, D'awa, the Iraqi Islamic Party, the Iraqi National Congress, the Iraqi National Accord, the Iraqi Independent Democrats, Patriotic Union of Kurdistan (PUK), Kurdistan Democratic Party (KDP), and the Iraqi Turkmen Front.

Large-scale corruption, systemic under the former regime, continued in a lesser degree and kind (*see* Section 1.c.).

Many high-level government officials, including some heads of ministries and regional units, continued to exercise the autocratic authority permissible under the Ba'athist regime. Thus, officials at MOI made arrests without first obtaining arrest warrants issued by a judge (*see* Section 1.d.). Court orders requesting proof that an arrest was lawful were sometimes ignored. Several heads of ministries attempted to remove their inspectors general (IG) in violation of the law that established those offices and which provided that IG may only be removed for specified causes.

The CPI was formed on January 28 and was dedicated to preventing and investigating cases of corruption in all ministries and other units of the Government nationwide. CPI is an independent body headed by a single Commissioner who reports publicly at least annually on the CPI's activities to the country's Chief Executive

and Legislature. CPI is responsible for investigating allegations of corruption within the Government and referring appropriate cases for criminal prosecution, promoting standards of transparency and accountability in government activities; and conducting community education and outreach programs to stimulate public demand for open, honest, and accountable government.

Among other initiatives, CPI conducted ethics training for selected ministry officials designed to instill respect for the rule of law and curb abuses of power. CPI also investigated a number of cases involving human rights violations. No results were public at year's end.

The CPA established a system of IGs for the various ministries in January. A number of ministers failed to provide sufficient support for the program and attempted to remove IGs without justification. Consequently, the Prime Minister approved a plan that would transfer oversight and financial responsibility for the IG program to CPI on a de facto basis.

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

A number of domestic and international human rights groups generally operated without government restriction other than security constraints, investigating and publishing their findings on human rights cases. While NGO advocacy is still in its infancy, government officials were generally cooperative and responsive to their views. The Ministry of Human Rights met regularly with NGO leaders.

By CPA Order 45, the Ministry of Planning and Development (MoPD) was accorded responsibility for the registration of foreign and domestic NGOs. On October 24, the Office of the Prime Minister issued a statement that the IIG had approved the transfer of the NGO Assistance Office from MoPD to the Ministry for Civil Society Affairs. The Minister of State for Civil Society has taken an active approach to developing relations with, and assisting, human rights and elections-related NGOs.

On May 16, MOI issued a letter instructing governorates to notify MOI of NGO funding and to get approval for such funding. In order to qualify, organizations had to sign an affidavit stating that their group was nonpolitical, nonreligious, financially responsible, and would work to build a democratic society. On August 24, although this edict was not generally enforced, a National Democratic Institute (NDI) employee in Nasiriya was arrested for failing to seek governorate approval for conducting NDI activities. The employee was subsequently released.

Terrorists throughout the country have systematically killed NGO and civic leaders.

NGOs had serious security concerns that impaired their ability to work in the country. On August 3, four citizen aid workers employed by the Agency for Technical Cooperation and Development were stabbed to death near Najaf. On September 7, unknown assailants kidnapped two Italian aid workers. Subsequently, a group claiming loyalty to al-Qa'ida and calling itself Al Zawahiri Loyalists took responsibility for the kidnappings. The women were held for 3 weeks before being released. On October 19, the charity group Care International confirmed that its head of operations had been kidnapped in Baghdad. After her presumed death, Care International suspended its operations in the country (*see* Section 1.g.).

The Ministry of Human Rights is responsible for the development and implementation of a human rights policy. The Ministry employed 250 people and, in addition to its office in Baghdad, had an office in Basra and planed to open offices in 5 other cities. There were also independent ministers of human rights in Arbil and Sulaimaniya.

During the year, the Ministry focused on raising awareness and knowledge of human rights throughout the country, building a viable civil society, working with other ministries to ensure that human rights were a mainstream priority within the Government, and assisting with humanitarian exhumations. The Ministry attempted to draw the Government's attention to human rights and abuses, pointing to the recent past when the former regime tortured thousands of persons perceived to be oppositionist.

In a July 13 online political publication (PolitInfo.com), the Human Rights Minister Bakhtiar Amin, expressed public concern that the new security forces, as well as the public at large, were not adequately educated regarding human rights. He noted that the battle against human-rights abuses was difficult because these abuses were "learned behavior," adding that the security forces were still not well-educated in the principles of human rights, international humanitarian law, conventions against torture, and the investigative methodologies of countries that have well-ingrained democratic values and rules. He has returned publicly to that theme, acknowledging that abuses had occurred and that the legacy of the former regime would take time to alter.

On November 18, the Ministry announced that it had earmarked $45 million (67.5 billion dinars) in aid for the city of Fallujah. Ministry teams used the money to provide emergency aid to an estimated 200,000 Fallujans displaced due to insurgent and subsequent military operations.

Security was a key issue for the Ministry of Human Rights during the year. The Minister and members of his staff received death threats. Additionally, experts judged the security situation too difficult to provide in-country training.

The Ministry established relationships with the international human rights and humanitarian communities in an effort to align the country's institutions and practices with international standards: The ICRC, the U.N. Development Fund for Women, as well as relationships with the United Nations Educational, Scientific and Cultural Organization, the U.N. Office for Project Services, Office of the High Commissioner for Human Rights, the U.N. Development Program, and the World Health Organization.

Section 5. Discrimination, Societal Abuses and Trafficking in Persons

The TAL provides that all citizens are equal without regard to gender, sect, opinion, belief, nationality, religion, or origin, and the Government generally enforced these rights.

Women.—The Ministry of State for Women's Affairs, with a professional staff of 10 and 13 security personnel, functioned primarily as a policy office.

The Ministry of Labor and Social Affairs' (MOLSA) Social Care Directorate administers a variety of social care institutions, among them for orphans and the elderly. No substantive assistance was currently offered for victims of domestic violence, although women who were heads of single-parent households did receive a minimal cash stipend from the Ministry.

Domestic violence against women occurred, but little was known about its extent. Such abuse was customarily addressed within the tightly knit family structure. There was no public discussion of the subject, and no statistics were published. There were some reports that honor killings occurred, but no further information was available.

A safe house located within the International Zone in Baghdad provided shelter to victims of domestic abuse or those threatened with honor killings. The safe house relied on nongovernmental support and had an uncertain future because of government space needs in the International Zone.

Women's leaders claimed that some extremist groups targeted women by kidnapping, killing, and terrorizing them in an effort to force them to refrain from working in public, to remain at home, wear veils, and adhere to a very conservative interpretation of Islam. According to an Amnesty International (AI) report, the lack of security remained a serious threat, and women and girls feared abduction, rape, and murder.

Islamic extremists reportedly targeted female university students in a number of cities and demanded that they cease wearing western style clothing and cover their heads while in public. Additionally, these extremists allegedly demanded that some universities separate male and female students. According to the Ministry of Higher Education, approximately 3,000 women indicated that they wanted to postpone their university studies because of the current security situation.

The law prohibits rape, and prostitution is illegal.

Children.—According to UNICEF, almost one-half of the country's total population was under the age of 18.

Primary education, which is free and universal, is compulsory through age 11. Attendance in the sixth grade fell to about 50 percent of first grade levels due, in part, to the pervasiveness of child labor.

According to UNICEF, nearly 1 in 4 children (31.2 percent of girls and 17.5 percent of boys) between the ages of 6 and 12 did not attend school. According to authorities, literacy dropped from 80 percent in the late 1980s to approximately 50 percent during the year. Although 75 percent of teachers are women, women and girls represented approximately 70 percent of the increase in illiteracy.

Ministry of Health clinics provide health care, which was generally free of charge to all citizens. There was no systemic distinction in the care provided to boys and girls.

During the August National Conference that chose the Interim National Council, a Human Rights Sub-Committee was established. It noted as one of its priorities the need to stop the exploitation of children, especially their employment in military militias.

The Child Welfare Commission, in coordination with UNICEF, held its first conference on children's rights on November 30. The Commission includes the Min-

istries of Labor and Social Affairs, Foreign Affairs, Education, Health, Culture, Planning, Youth, Justice, Environment, Interior, Women's Affairs, and Human Rights.

Trafficking in Persons.—Detection of trafficking was extremely difficult due to lack of information because of the security situation, existing societal controls of women, and the closed-tribal culture. Some reports suggested that the country might be a country of origin for women trafficked for the purpose of sexual exploitation to other countries within the region and to India. For example, there were reports indicating that some citizen women and girls were trafficked to the Arabian Peninsula for sexual exploitation. Some of these victims cited threats against their families as a means of coercion; others may be victims of debt bondage. To a lesser extent, there were reports of girls and women trafficked within the country for sexual exploitation. The Ministry of Interior has responsibility for trafficking-related issues.

Persons With Disabilities.—The Ministry of Labor and Social Affairs operated several institutions for the education of disabled children and young adults. These institutions offered basic educational services; however, they did not have access to appropriate pedagogical technology due to the absence of training and funding.

National/Racial/Ethnic Minorities.—Ethnically and linguistically, the country's population includes Arabs, Kurds, Turkmen, Chaldeans, Assyrians, and Armenians. The religious mix likewise is varied and consists of Shi'a and Sunni Muslims (both Arab and Kurdish), Christians (including Chaldeans and Assyrians), Kurdish Yazidis, and a small number of Sabean Mandaeans, Baha'is, and Jews.

Historic tensions between Turkmen and Kurds reportedly reached their peak at the end of 2003 and continued during this reporting period.

Assyrian and Chaldean were considered by many to be a distinct ethnic group. These communities spoke a different language (Syriac), preserved traditions of Christianity, and did not define themselves as Arabs.

The TAL identifies Arabic and Kurdish as the two official languages of the State. It also guarantees the right of citizens to educate their children in their mother tongue, such as Turcoman, Syriac, or Armenian, in government educational institutions in accordance with educational guidelines, or in any other language in private educational institutions.

Christians in the region reported that they experienced problems, which they attributed to the affiliation of some Sunnis with foreign Sunni extremist groups; however, relations with their Shi'a neighbors remained cordial. Many Christians have reportedly left their businesses because of threats. Some Christian professionals complained that corruption in the Government excluded them from jobs for which they qualified.

The country's Jewish population reportedly dwindled at year's end to only 22 persons in the Baghdad area, from 33 in April 2003. Soon after the fall of the Ba'ath Regime, the IGC signed a memorandum with the Baghdad Jewish community that would protect Jewish assets should all members of the community depart the country. These assets would be transferred to three external organizations.

Section 6. Worker Rights

The exercise of labor rights remained limited, largely due to societal violence, high unemployment, and maladapted labor organizational structures and laws; however, with international assistance, some progress was underway at year's end.

MOLSA's Labor Directorate has jurisdiction over the labor code, child labor, wages, the Occupational Safety and Health Administration (OSHA), and labor relations. Most elements of this department were not staffed and no funds were available from the budget.

At year's end work was in progress to draft a new labor code. The TAL incorporated the 1987 labor code and the CPA Order Number 89 that amended it.

a. The Right of Association.—The TAL guarantees the right of free, peaceable assembly and the right to join associations freely, as well as the right to form and join unions and political parties freely.

Despite the formation of dozens of trade union groups since 1991, MOLSA continued to recognize and deal with the Iraqi Federal Federation of Trade Unions. This was the only labor federation recognized by the government, in spite of the existence of three other labor federations.

Throughout the year, the International Labor Organization (ILO) provided technical assistance outside the country to help rebuild the capacity of MOLSA, establish emergency employment services, and put in place training and skills programs. In June, a national delegation composed of representatives of workers, employers, and the Government attended the 92nd session of the ILO Conference in Geneva.

The Conference accepted an arrangement proposed by the Government for the settlement of its arrears of contributions for the period 1988–2003, thereby restoring the country to full voting rights in the Conference.

b. The Right to Organize and Bargain Collectively.—The TAL states that every citizen has the right to demonstrate and strike peaceably in accordance with the law. The labor law of the former regime still in force prohibits collective bargaining in the public sector.

In February, a delegation of the Brussels-based International Confederation of Free Trade Unions (ICFTU) visited the country on a 10-day fact-finding mission. Composed of members of ICFTU affiliates in Tunisia, the United Kingdom, and the U.S., as well as representatives of the Global Union Federations in the education and transport sectors, the delegation met with workers and trade union leaders, members of the Iraqi Federation of Industries, and officials of the IGC and the CPA. The ICFTU reported that workers were organizing unions in workplaces where they had been forbidden under the laws of the former regime and revitalizing union structures previously dominated by the Ba'athists. Later in the year, the ICFTU provided a number of training seminars in core labor standards for trade unionists.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the worst forms of child labor. The Government had limited capacity to enforce the law due to the effects of the ongoing insurgency. The minimum age for employment is 15 years.

The Child Labor Unit at MOLSA was established in January with a staff of four. The Unit is responsible for coordinating child labor projects designed to eliminate the worst forms of child labor, raising awareness of the hazards of the worst forms of child labor, and conducting inspections of work places to enforce child labor laws. No inspectors were hired or trained, and no further budget allocations were made to support the unit by year's end.

Despite the various laws and regulations in place, children were routinely tapped as an additional source of labor or income for the family unit. This often took the form of seasonal manual labor in rural areas, while in cities; it often meant begging or peddling a variety of products

According to a report of the Islamic Institution for Women and Children, many children under the age of 16 worked to help support their unemployed parents. The report cited poverty as the main reason for child labor. In Baghdad's industrial zone (Kusra and Attach areas), children worked in various industrial crafts industries and constituted approximately 30 percent of the workers. Children earned, 66 cents to $2 (1000 to 3000 dinars) per day.

e. Acceptable Conditions of Work.—The national minimum wage for a skilled worker was less than $7.00 per day (10,000 dinars) and for an unskilled worker less than $3.50 per day (5,000 dinars). The standard workday is 8 hours. The average salary was approximately $1,250 per year (1,785 million dinars). Unskilled workers must work 357 days per year to achieve this average. These earnings were barely above poverty level.

The OSHA component of MOLSA was inherited from the Ministry of Health and comprises approximately 129 staff located throughout the country. Salary disputes and a lack of funding effectively curbed any work by this unit.

ISRAEL

Israel is a multiparty parliamentary democracy. "Basic laws" enumerate fundamental rights. The 120-member Knesset has the power to dissolve the Government and mandate elections. The current Knesset and Prime Minister Ariel Sharon were elected democratically in 2003. (An annex to this report covers human rights in the occupied territories. This report deals only with the situation in Israel itself.) The judiciary is independent and often ruled against the Executive, even in security cases.

During the year, a total of 76 Israeli civilians and four foreigners were killed as a result of Palestinian terrorist attacks in Israel and the occupied territories, and 41 members of the Israeli Defense Forces were killed in clashes with Palestinian

militants. During the same period, more than 800 Palestinians were killed during Israeli military operations in the occupied territories.

Internal security is the responsibility of the Israel Security Agency (ISA or Shin Bet), which is under the authority of the Prime Minister. The National Police, which includes the Border Police and the Immigration Police, are under the Minister of Internal Security and the Minister of Interior respectively. The Israel Defense Forces (IDF) are under the authority of a civilian Minister of Defense. The IDF includes a significant portion of the adult population on active duty or reserve status. The Foreign Affairs and Defense Committee in the Knesset oversees the IDF and the ISA. Security forces were under effective government control. Some members of the security forces committed serious abuses.

The country's population is approximately 6.8 million, including 5.2 million Jews, 1.3 million Arabs, and some 290,000 other minorities. It has an advanced industrial, market economy with a relatively high standard of living. Twenty one percent of the population lived below the poverty line in 2003. Unemployment was approximately 11 percent, and was higher among the Arab population. Foreign workers, both legal and illegal, constituted about 7 percent of the labor force.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Some members of the security forces abused Palestinian detainees. Conditions in some detention and interrogation facilities remained poor. During the year, the Government detained on security grounds but without charge thousands of persons in Israel. (Most were from the occupied territories and their situation is covered in the annex.) The Government did little to reduce institutional, legal, and societal discrimination against the country's Arab citizens. The Government did not recognize marriages performed by non-Orthodox rabbis, compelling many citizens to travel abroad to marry. The Government interfered with individual privacy in some instances.

Discrimination and societal violence against women persisted, although the Government continued to address these problems. Trafficking in and abuse of women and foreign workers continued to be problems. Discrimination against persons with disabilities persisted.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings by the Government or its agents during the year.

Twelve Israeli-Arab and one Palestinian protestors were killed by police during October 2000 demonstrations (*see* Section 2. b.). The Orr Commission of Inquiry (COI) was established to investigate those killings. It recommended a number of measures, including criminal prosecutions. The Cabinet adopted those recommendations in June. At year's end, the Justice Ministry had not completed its investigations. In October, the Justice Minister appointed Assistant Commander Benzi Sau, one of the officers being investigated, to the position of Border Police staff commander. The Legal Center for Arab Minority Rights in Israel (Adalah), an Israeli-Arab advocacy group, charged that this was a promotion. The Orr Commission specifically recommended that Sau not be promoted due to his involvement in the killings.

During the year, terrorist organizations such as the Islamic Resistance Movement (Hamas), Al-Aqsa Martyrs' Brigades, Hizballah, Islamic Jihad, and the Popular Front for the Liberation of Palestine (PLFP), committed numerous acts of terrorism in Israel as well as in the occupied territories.

According to the Government, there was a 45 percent reduction in the number of Israelis killed in such attacks during the year due to the construction of a security barrier (*see* annex) and effective terrorist interdiction. Seventy-six Israeli civilians and 4 foreign nationals were killed, and over 394 were injured in terrorist attacks during the year. Forty-one Israeli security forces were killed and 195 injured. There were 13 suicide attacks during the year that resulted in 53 Israeli and 2 Palestinian deaths. In addition, eight suicide bombers killed only themselves. In contrast, 26 suicide attacks in 2003 caused 144 deaths.

In July 2003, the Border Police killed Morassi Jibali, an Israeli-Arab. Police claimed the car in which he was a passenger had failed to stop upon order, and that he had been mistaken for a terrorist. The driver claimed that he had tried to avoid the roadblock because he was driving without a license. According to Mossawa Advocacy Center for Arab Citizens of Israel (Mossawa), witnesses reported that the police did not warn the driver before firing and that police later prohibited medical personnel from treating Jibali. At year's end, the Ministry of Justice division for investigating police officers continued to investigate the incident.

In July 2003, police killed unarmed Bedouin, Nasser Abu al Qia'an, in his car at a junction. Police claimed he had tried to run them over but at least one witness disputed the police account, reporting that spikes in the road prevented any movement of the car. In September, the Ministry of Justice filed an indictment against the police officer, who was subsequently tried and found not guilty on the grounds of self-defense.

In September 2003, residents of an Arab community, Kafr Qassem, clashed with police searching for illegal immigrants. The police wounded one Israeli Arab when, according to police reports, village residents began to throw stones. According to Mossawa, at year's end, the police had either not investigated or had closed all cases against the police involved.

On January 29, a suicide bomber blew up a Jerusalem bus killing 11 Israelis and injuring 50. Al Aqsa Martyrs' Brigades and Hamas claimed responsibility. On August 31, twin suicide bombs exploded on buses in Be'er Sheva, killing 16 persons and injuring over 100. Hamas claimed responsibility.

On November 1, a suicide bombing in Tel Aviv killed 3 Israelis and wounded 30. The PFLP claimed responsibility. According to official Israeli data, the number of rocket and mortar attacks against Israeli targets increased over the year. Palestinian terrorists routinely fired rockets into Sderot, a town that borders the Gaza Strip. Qassam rocket attacks on June 28, and again on September 29, killed four residents of Sderot.

b. Disappearance.—There were no reports of politically motivated disappearances during the year.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Laws, judicial decisions, and administrative regulations prohibit torture and abuse; however, during the year, credible NGOs filed numerous complaints with the Government alleging that security forces tortured and abused Palestinian detainees. (The law regarding torture and allegations of torture of Palestinians by Israeli security officials is discussed in the annex to this report.)

The Public Committee Against Torture in Israel (PCATI) stated that no ISA officials had been tried on torture charges during the past 3 years.

In June, the Physicians for Human Rights in Israel (PHR) petitioned the Supreme Court to end what it termed the Israel Prison System's (IPS) "systematic abuse of prisoners" in the Sharon Prison. In July, the court decided to close the case after prisoner complaints ended with the appointment of a new prison warden. At year's end, PHR continued to investigate the complaints and had received relevant files from the police.

A special bureau in the Ministry of Justice reviews complaints against police officers and may impose disciplinary charges or issue indictments against officers. During the year, several judges criticized this bureau for launching faulty investigations against police officers who were later acquitted.

In January, two police officers were convicted of raping a foreign worker after they confiscated her work permit; each received a 2-year prison sentence.

In May, an official secretly recorded a senior immigration police officer stating that immigration police used excessive force when detaining foreign workers. The senior officer confirmed his statement to the media, but its accuracy was disputed by the Immigration Police spokesperson. At year's end, a Knesset Committee on Foreign Workers continued to investigate this matter.

The law provides detainees the right to live in conditions that do not harm their health or dignity. Conditions in IPS facilities, which house common law criminals and convicted security prisoners, and in IDF military incarceration camps, which hold convicted security prisoners, generally met international standards. The ICRC has access to these facilities. However, police detention and interrogation facilities for Palestinian were overcrowded and had austere, provisional conditions. In June 2003, the Supreme Court issued a permanent injunction prohibiting prisoners from being forced to sleep on the floor and mandated that every prisoner be provided a bed. Subsequently, the Minister of Internal Security stated that all persons held in the IPS would receive a bed, daily outdoor exercise, telephone and visitation rights, and less crowded facilities. In May, however, the IPS deputy warden told a Knesset committee that approximately 500 prisoners in the IPS, both security and criminal, slept nightly on prison floors because of a lack of beds.

Conditions at the Russian Compound interrogation center in Jerusalem remained harsh. According to a PHR report released in November 2003, prisoners in the Russian Compound holding cells were routinely handcuffed with their hands behind their backs to their feet, sometimes for hours. The PHR report also stated that medical examinations given to arriving prisoners were used to determine if the prisoner could withstand "the application of violent approaches to those jailed." A reputable

international organization with access to this facility also reported during the year that it is investigating the use of Israeli doctors in this capacity.

Women and children in prison were held separately from the adult male population. Citizens 18 years and older and Palestinians 16 and older were treated as adults. The ICRC reported that, as of the end of December, the Government held 498 minor Palestinians, with the youngest being 13 years old. Defense for Children International and Save the Children charged that minors were being "physically and mentally abused," denied access to their families and legal representation during interrogation, and held in overcrowded and unsanitary conditions.

The ICRC regularly monitored IPS facilities, as well as IDF camps and detention facilities. Pursuant to a 1979 ICRC-Israel agreement, the ICRC does not have access to interrogation facilities but can meet with detainees under interrogation in designated areas of those facilities. NGOs generally were not permitted to monitor any incarceration facilities, including within the IPS, but could send lawyers and representatives to meet with prisoners in those facilities. According to PHR, the Israeli Bar Association and public defenders were permitted to inspect IPS facilities.

In December, in response to a petition to compel the Government to release information on a secret IDF detention facility, the Supreme Court ruled that the Government should not use secret interrogation facilities. The court gave the Government 60 days to respond to its undisclosed suggestions related to the secret facility.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. (Palestinian security detainees fell under the jurisdiction of military law even if they were detained in Israel (*see* annex). When arrested, the accused is considered innocent until proven guilty, has the right to habeas corpus, to remain silent, to be represented by an attorney, to contact his family without delay, and to a fair trial. A bail system exists and decisions denying bail are subject to appeal. A citizen may be held without charge for 24 hours before he must be brought before a judge (48 hours for administrative detainees). If the detainee is suspected of committing a "security offense," the police and the courts can delay notification of counsel for up to 31 days. The Government may withhold evidence from defense lawyers on security grounds. In March, the Public Defender's Office charged that the police sometimes failed to apprise detainees of their rights under law and did not always provide detainees with legal counsel when required. The Public Defender's Office estimated that, as a result, approximately 500 persons were deprived of their rights to due process.

Foreign nationals detained for suspected violations of immigration law are afforded an immigration hearing within 4 days of detention, but do not have the right to legal representation. According to the local advocacy organization Hotline for Migrant Workers, appropriate interpreters were not always present at the hearings. Hotline received complaints from Israeli attorneys of being denied access to their foreign clients. According to Hotline, foreign detainees were rarely released pending judicial determination of their status. If the country of origin of the detainee had no representation in the country, detention could last for months, pending receipt of travel documents. During the year, there were credible allegations that the police knowingly detained and deported legal foreign workers to meet deportation quotas.

Pursuant to the 1979 Emergency Powers Law, the Ministry of Defense may order persons detained without charge or trial for up to 6 months in administrative detention, renewable indefinitely subject to district court review. Such detainees have the right to legal representation, but the court may rely on confidential information to which the defendant and his or her lawyer are not privy. Administrative detainees have the right to appeal their cases to the Supreme Court.

In September, Minister of Defense Shaul Mofaz ordered the 4-month administrative detention of Israeli citizen Tali Fahima based on confidential evidence that she was involved in terrorist activity. Fahima's appeal to the Supreme Court was denied in November. In December, she was released due to insufficient evidence, but was rearrested shortly thereafter when police presented additional evidence. Fahima remained in administrative detainee until later in December, when the Tel Aviv Magistrate's Court indicted her on criminal charges, which included assisting the enemy during wartime and passing information to the enemy. At year's end, she was detained pending trial.

In the past, human rights groups have alleged abuse of preventative or administrative detention orders in cases in which the accused did not pose a clear danger to society.

In 2000, the High Court ruled that detaining Lebanese captives indefinitely as "bargaining chips" violated the administrative detention law. In 2002, the Knesset passed the Illegal Combatant Law allowing the IDF to detain persons who are sus-

pected of "taking part in hostile activity against Israel, directly or indirectly" or who "belong to a force engaged in hostile activity against the State of Israel."

In January, the GOI released Mustafa Dirani, head of the security for the Amal militia; Sheikh Obeid, a Lebanese cleric; and some 25 other Lebanese prisoners held as enemy combatants in return for the release of Elchanan Tanenbaum, a kidnapped Israeli held by the Hizballah terrorist group in Lebanon, and the remains of three IDF soldiers kidnapped to Lebanon in 2000. The Government also released 400 Palestinian prisoners and another 9 foreign prisoners in addition to the Lebanese. In October 2003, the Tel Aviv District Court disclosed that a Lebanese citizen, imprisoned in the country for 5 years but eligible for release, had been detained under administrative detention for the past year because the IDF decreed him an illegal combatant. He was released and repatriated in December.

According to a reputable international organization, at year's end one Lebanese national remained in Israeli detention.

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

The Judicial Branch is organized into three levels: Magistrate Courts; six District Courts; and the Supreme or High Court. District Courts prosecute felonies, and Magistrate Courts prosecute misdemeanors. There are military, religious, labor relations, and administrative courts, with the High Court of Justice as the ultimate judicial authority. The High Court is both a court of first instance and an appellate court (when it sits as the Supreme Court). All courts in the judicial system, including the High Court of Justice, thus have appellate courts of jurisdiction. Religious courts, representing the main recognized religious groups, have jurisdiction over matters of personal status for their adherents (*see* Section 2.c.).

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The country's criminal justice system is adversarial, and professional judges rather than juries decide cases.

Nonsecurity trials are public except in cases in which the interests of the parties are determined to be best served by privacy. Security or military trials are open to independent observers upon request and at the discretion of the court, but they are not open to the general public. The law provides for the right to a hearing with legal representation, and authorities generally observed this right in practice. In cases of serious felonies—subject to penalties of 10 years or more—indigent defendants receive mandatory legal representation. Indigent defendants facing lesser sentences are provided with representation on a discretionary basis. Counsel represented approximately 70 percent of defendants.

The 1970 regulations governing military trials are the same as evidentiary rules in criminal cases. Convictions may not be based solely on confessions; however, according to PCATI, in practice, some security prisoners have been sentenced on the basis of the coerced confessions made by both themselves and others. Counsel may assist the accused, and a judge may assign counsel to those defendants when the judge deems it necessary. Indigent detainees are not provided with free legal representation for military trials. Charges are made available to the defendant and the public in Hebrew, and the court can order that they be translated into Arabic if necessary. Sentencing procedures in military courts were consistent with those in criminal courts. Defendants in military trials have the right to appeal through the Military High Court. Defendants in military trials also can petition the civilian High Court of Justice (sitting as a court of first instance) in cases in which they believe there are procedural or evidentiary irregularities.

According to a 2003 Haifa University study, a tendency existed to impose heavier prison terms to Arab citizens than to Jewish citizens. Human rights advocates claimed that Arab citizens were more likely to be convicted of murder and to have been denied bail.

In May, three Israeli Arabs were released after having been detained for 10 months in prison when the police arrested new suspects for the July 2003 murder of IDF corporal Oleg Shaigat. One of those released publicly stated that his confession was coerced. According to the Government, it will conduct an official examination of this case.

Human rights NGOs charged that the former mayor of the Arab city of Umm al-Fahm, Sheikh Raed Salah, who was arrested in May 2003 for allegedly funneling money to terrorist organizations, has been unfairly denied bail despite his status and community ties. At year's end, his case was still pending.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law generally protected privacy of the individual and the home. In criminal cases, the law permits wiretapping under court order; in security cases, the Ministry of De-

fense must issue the order. Under emergency regulations, authorities may open and destroy mail based on security considerations.

In May, the High Court banned the unsupervised electronic flow to public bodies and banks of data on private citizens maintained by the Government's Population Registry.

Separate religious court systems adjudicate personal status matters such as marriage and divorce for the Jewish, Muslim, Christian, and Druze communities. Jews can only marry in Orthodox Jewish services. Jews and members of other religious communities who wish to have a civil marriage, Jews who wish to marry according to Reform or Conservative Judaism, those not recognized as being Jewish, and those marrying someone from another faith, must marry abroad in order to gain government recognition of their unions. While civil marriages are available in nearby Cyprus and are recognized by the Government, this requirement presents a hardship. In July, the Knesset extended for 6 months the 2003 law that prohibits citizens' Palestinian spouses from the occupied territories from residing in the country (*see* Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The law prohibits hate speech and incitement to violence, and the 1948 Prevention of Terrorism Ordinance makes it illegal for persons to express support for illegal or terrorist organizations. In previous years, the Government has prosecuted persons for allegedly speaking or writing on behalf of terrorist groups; however, there were no such incidents during the year.

On May 25, the ISA detained for 2 days British journalist Peter Hounam following his meeting with nuclear whistleblower Mordechai Vanunu, who was released in April after serving 18 years in prison (*see* Section 2.d.). The terms of Vanunu's release prohibited him from meeting with the foreign press unless approved by the Government. On November 11, police re-arrested Vanunu for meeting foreign media in violation of the terms of his release and confiscated his computer. Vanunu acknowledged the violation, and was released after 12 hours. Vanunu's computer had not been returned by year's end.

In June, Arab Knesset Members Ahmed Tibi and Taleb el-Sana were censured by the Knesset Ethics Committee for harshly criticizing IDF operations in Gaza. The Committee banned Tibi and el-Sana from attending Knesset sessions for 1 and 2 days, respectively.

In September, the Supreme Court upheld its original ruling overturning the Film Council's ban on the screening of the film, "Jenin, Jenin," which depicts fighting in the West Bank refugee camp in Jenin during April 2002. In its decision, the Supreme Court reasoned that a ban on the film was an undue infringement on freedom of expression.

Arab Knesset Member Azmi Bishara was indicted (after the Knesset lifted his immunity) for making statements allegedly supportive of Hizballah during 2000 visits to Syria (a country still in a state of war with Israel) and to the Israeli-Arab city of Umm al-Fahm. In November, the Supreme Court held a hearing on a petition filed by Adalah to dismiss the charges. At year's end, the case was still pending.

As a general rule, Israeli media covered the occupied territories, except for combat zones where access was restricted. In general, journalists continued to claim that the Government placed limitations on their freedom of movement within the occupied territories. The Government claimed such restrictions were necessary for the security of the journalists.

There were several allegations from foreign media that the IDF fired upon journalists (*see* annex).

In August, the Supreme Court ruled that the Government Press Office could not apply a blanket refusal to issue press credentials to facilitate access to official events to Palestinians from the occupied territories. The Court reasoned that such a blanket policy did not properly balance freedom of the press and national security.

All newspapers are privately owned and managed. According to the Journalism Ordinance dating from the British Mandate, anyone wishing to publish a newspaper must apply for a license from the locality. The ordinance also allows the Minister of Interior, under certain conditions, to close a newspaper. In November, the High Court heard a petition filed by the Association for Civil Rights in Israel (ACRI) challenging the ordinance; at year's end, the court had not reached a decision.

The country has 12 daily newspapers, 90 weekly newspapers, more than 250 periodical publications, and a number of Internet news sites.

The quasi-independent Israel Broadcast Authority controls television Channel 1 and Kol Israel (Voice of Israel) radio, both major sources of news and information.

The Second Television and Radio Authority, a public body, supervises the two privately owned commercial television channels and 14 privately owned radio stations. There are three cable and one satellite television companies that carry international networks and shows specifically produced for the domestic audience.

The law authorizes the Government to censor any material reported from the country or the occupied territories that it regards as sensitive on national security grounds. A censorship agreement between the Government and media representatives provides for military censorship only in cases involving issues that are nearly certain to harm the country's defense interests. Media organizations may appeal the censor's decision to the High Court of Justice, and they are not subject to closure by the military censor for censorship violations. The military censor cannot appeal a court judgment. Foreign journalists were required to sign an agreement upon receiving their press cards in which they agreed to submit sensitive articles and photographs to the military censor. In practice, they rarely complied; however, the censor reviewed such material after the fact. News printed or broadcast abroad may be reported without censorship. During the year, there were instances of newspapers being fined for violating censorship regulations.

The Government generally respected academic freedom; however, ISA approval was needed for appointments of teachers and administrators in Arab schools. In August, members of a Knesset committee reviewing the status of the Arab education system criticized this practice.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice. ACRI reported that the police confiscated posters from both right and left wing demonstrations during the year, including posters referring to Prime Minister Sharon as a "dictator."

The law provides for the right of association, and the Government generally respected this provision in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the Government generally respected this right. The Basic Law and Declaration of Independence recognize the country as a "Jewish and democratic state," establishing Judaism as the country's dominant religion. Civil rights NGOs have accurately charged the Government with the discriminatory allocation of state resources favoring Orthodox Jewish institutions.

Religious communities are conferred recognition under the law, enabling them to exercise legal authority over their members in personal status matters, such as marriage and divorce. These communities included the Eastern Orthodox Church, several Catholic orders, Maronites, and Jews. Three additional communities have been recognized—the Druze, the Evangelical Episcopal Church, and the Baha'i. Several religious communities are not recognized, including Protestant groups. Unrecognized communities may practice their religion freely and maintain communal institutions, but are ineligible to receive government funding for religious services.

The fact that there was no recognized Muslim community is a vestige of the Ottoman period, during which time Islam was the dominant religion, and did not affect the rights of Muslims to practice their faith. Legislation enacted in 1961 afforded the Muslim courts exclusive jurisdiction to rule in matters of personal status concerning Muslims. Secular courts have primacy over questions of inheritance, but parties, by mutual agreement, may bring cases to religious courts. Muslims, since 2001, also have the right to bring matters such as alimony and property division associated with divorce cases to civil courts in family-status matters.

Under the Law of Return, the Government grants citizenship and residence rights to Jewish immigrants and their immediate family members. In May, the High Court held that non-Jews who immigrate to the country and then convert according to Orthodox requirements are eligible to become citizens pursuant to the Law of Return. The court let stand the State's practice of not recognizing conversions to Judaism performed in the country by non-Orthodox rabbis.

In December, ACRI released a report charging that the Ministry of Interior's Population Authority sought to prevent non-Jews—particularly spouses of Israeli citizens—from obtaining residential status.

Many citizens objected to exclusive Orthodox control over religious aspects of their personal lives. Approximately 300,000 citizens who immigrated under the Law of Return are not considered Jewish by the Orthodox Rabbinate. These immigrants cannot be married, divorced, or buried within the country. A 1996 law requiring the Government to establish civil cemeteries has not been implemented adequately. Non-Jews and Jews who wish to marry in Reform, Conservative, or secular ceremonies must do so abroad.

Non-Orthodox Jews faced greater difficulties than Orthodox Jews in adopting children. In December, on petition of the Israeli Religious Action Center (IRAC), the High Court of Justice ordered the Government to justify the Adoption Service of the Ministry of Social Affairs' practice of placing non-Jewish children only in Orthodox Jewish homes.

According to IRAC, the budget for Jewish religious services, institutions, and schools for the year was approximately $450 million (1.9 billion New Israeli shekels(NIS), and virtually none of this went to non-Orthodox institutions. Also according to IRAC, the budget for the non-Jewish population was approximately $9 million (40 million NIS)—2 percent of the budget for 18 percent of the population.

Muslim groups complained that the Government does not equitably fund the construction and upkeep of Muslim holy sites in comparison to Jewish Orthodox sites. It charged that the Government was reluctant to refurbish mosques in areas where there is no longer a Muslim population and has allowed mosques to be used for non-religious purposes. The 1967 Protection of Holy Sites Law protects all holy sites, but the Government has only issued implementing regulations for Jewish sites. In November, Adalah petitioned the Supreme Court to compel the Government to issue regulations to protect Muslim sites, charging the Government's failure to implement regulations had resulted in desecration and the conversion of some into commercial establishments, including bars.

Since 2000, the Government no longer requires Israeli Muslims to obtain permission from the Interior Ministry to travel to Saudi Arabia on the Hajj.

During 2003, the Government refused to grant residence visas to approximately 130 Catholic clergy assigned by the Vatican to the country and the occupied territories. According to representatives of Christian institutions, the process of visa issuance for religious workers significantly improved during the year. The Interior Ministry's Christian Department reported it had approved most of the 3,000 applications made by clergy during the year.

During the year, there were reports that airport immigration deported non-Jews with mutilated passports, whereas Jews with damaged travel documents were allowed entry.

Missionaries were allowed to proselytize, although the Church of Jesus Christ of Latter-day Saints voluntarily refrained from doing so under an agreement with the Government. There were incidents of societal religious intolerance. In October, a yeshiva student spat at the Armenian archbishop of Jerusalem. The student was arrested and ordered to remain away from the Old City for 75 days. He also made a formal apology. There were incidents where ultra-Orthodox Jews threw rocks at motorists to protest their driving on the Sabbath.

In January, the Government recognized the duly elected Greek Orthodox Patriarch, Eirinaios I; however, a legal challenge delayed implementation until March. Eirinaios I was elected in 2001, but had been unable to conclude financial or legal arrangements on behalf of the Patriarchate. However, he had been free to travel to the West Bank and Syria, where he is also the ecclesiastical authority.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights and the Government generally respected them in practice for citizens. (Restrictions on movement within the occupied territories, between the territories and Israel, and the construction of a security barrier are discussed in the annex.)

Citizens generally were free to travel abroad and to emigrate, provided they had no outstanding military obligations and were not restricted by administrative order. Pursuant to the 1945 State of Emergency Regulations, the Government may bar citizens from leaving the country based on security considerations. In April, the Government released Mordechai Vanunu after he served 18 years in prison for revealing details of the country's nuclear program to a British newspaper, the Sunday Times. Upon release, the Government prohibited Vanunu from going within 500 meters of airports and overland border crossings, and from entering any foreign diplomatic offices. Citing security concerns, the Minister of Interior barred Vanunu from leaving the country for 12 months. On December 24, Vanunu was detained at a checkpoint when he attempted to travel to Bethlehem for midnight mass; he was released the next day (*see* Section 2. a.)

Citing confidential security reasons, in 2002, the Government imposed and renewed 6-month bans on foreign travel for Sheik Raed Salah, leader of the Northern Branch of Israel's Islamic Movement. In May 2003, Sheikh Salah was arrested for allegedly providing funds to terrorist groups. His trial was ongoing during the year.

Citizens, including dual nationals, are required to enter and leave the country using their Israeli passports only. In addition, no citizen or passport holder is permitted to travel to countries officially at war with Israel without special permission from the Government.

Advocacy groups challenged the 2003 temporary Citizenship and Entry into Israel Law, which bars Palestinians from the occupied territories from acquiring residence or citizenship rights through marriage to Israelis or to Palestinian residents of Jerusalem. These groups claimed that the law has a disproportionate adverse effect on the country's Arab citizens and residents (*see* Section 5).

In 2002, the police confiscated the passport of Archimandrite Attallah Hanna, a citizen and a priest with the Greek Orthodox Patriarchate, for allegedly visiting Lebanon without permission and for making public statements hostile toward Israel while there. The case against Hanna was closed in January after Hanna signed a declaration renouncing terrorism. At year's end, Hanna claimed that he had not received a response to his application for a passport.

The law prohibits forced exile of citizens, and the Government generally respected this prohibition in practice.

The Government provides refugees all the protections under the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol and has established a system whereby persons can apply for refugee status. Palestinians were considered under the protection of the U.N. Relief and Works Agency for Palestine Refugees and therefore not eligible for refugee status in the country.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting Jewish refugees. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention or 1967 Protocol. The Government provided temporary humanitarian protection to persons from "conflict countries," including Sierra Leone, Liberia, Cote d'Ivoire, and the Democratic Republic of the Congo.

Some individuals present on tourist or work visas, or illegally, filed petitions with the local UNHCR representative seeking refugee status. The UNHCR referred eligible refugee applicants to the National Status Granting Body (NSGB), a committee consisting of representatives of the Justice, Foreign, and Interior Ministries. The NSGB issued recommendations, with the Ministry of Interior making final adjudication on refugee status. The Tel Aviv University Refugee Rights Clinic charged that the NSGB's procedures were not transparent, that it did not publish data, and that applicants who were denied status by the NSGB often were not given a reason for the denial.

The Government did not return those denied refugee status to their home countries against their will. According to the Tel Aviv University Clinic, some of those denied refugee status could remain in detention facilities for months. In the case of asylum seekers from countries with which Israel was at war, the Government attempted to find a third country to accept them. The Government provided asylum seekers with temporary work permits, but it did not provide them with social benefits. If a person was granted refugee status, it was government policy to grant renewable temporary visas.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for adult citizens. National elections were held in January 2003, when the Likud Party led by Ariel Sharon again won a plurality of Knesset seats, and Sharon was asked to form a Government of which he became Prime Minister. The country is a parliamentary democracy with an active multiparty system in which political views are wide ranging. Relatively small parties, including those whose primary support was among Israeli Arabs, regularly win seats in the Knesset. Elections are by secret ballot.

In March, the State Comptroller discovered the names of 2,298 citizens age 110 or over in the voter registry, and determined that ballots had been cast in the names of some of these individuals. The Comptroller recommended that the Ministry of Interior investigate the registry's data to prevent fraud.

The Basic Law prohibits the candidacy of any party or individual who denies the Jewish character and democratic existence of the State of Israel, incites racism, or supports in action or speech the armed struggle of enemy states or terror organizations. Prior to the 2003 election, there were efforts to disqualify Arab candidates under the provisions of this law; however, they were overturned by the Supreme Court.

In June, the Attorney General exonerated Prime Minister Sharon of allegations that he accepted bribes while serving as foreign minister in 1999. The Attorney General continued to review the Prime Minister's connections to the so-called "Cyril Kern Affair," in which he was alleged to have engaged in questionable financial dealings to refund illegal campaign contributions.

On July 11, the Prime Minister dismissed Minister of Infrastructure and Knesset Member Josef Paritzky from his cabinet seat after Channel 1 Television broadcast a tape of Paritzky allegedly plotting with a private detective to defame a party rival.

In September, Knesset Member Tzachi Hanegbi was suspended from his post as Minister of Public Security, pending a criminal investigation into allegations he made inappropriate political appointments while serving as environment minister from 2001–03. At year's end, there had been no further developments.

There was an increasing public perception of corruption in the executive and legislative branches.

A 2000 law affords the public access to government information, and citizens could petition for such access. According to the Association for Civil Rights in Israel, the Government does not effectively implement its freedom of information act; consequently, information was not always easy to obtain.

There were 18 women in the 120-member Knesset, and women chaired 6 of the Knesset's 21 committees, including the Committee on the Status of Women. There were 3 women in the Cabinet and 6 women on the 14-member High Court of Justice. There were 11 Arabs, including 2 Druze, in the 120-member Knesset; most of these 11 represented parties that derived their support largely or entirely from the Arab community. In March, for the first time since the establishment of the State, an Arab was appointed as a permanent justice to the High Court of Justice. No Muslim or Druze citizens served on the court.

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

Following a visit in November 2003, the World Organization Against Torture and the International Federation for Human Rights concluded in a study that human rights groups were able to perform a full range of investigative and protective activities in the country "without major difficulties."

In November 2003, the Ministry of Foreign Affairs established a new liaison unit to develop and maintain relations with international and domestic NGOs, assist domestic NGOs to participate in U.N. and other international fora, and to facilitate international NGOs' visits to the country.

During the year, the Ministry of Interior, operating under a 2002 order, barred entry to all foreign nationals affiliated with certain Palestinian human rights NGOs and solidarity organizations. In July, immigration police detained a U.S. citizen for over a month at Ben Gurion Airport on security grounds before a district court ruled that she could enter. The U.S. citizen was affiliated with the International Solidarity Movement, a Palestinian advocacy NGO.

In February, the Ministry of Interior sustained the appeal of Adalah against the decision of the Office of the Registrar of Associations to investigate its activities. The registrar had contended that Adalah exceeded its mandate by associating with a political party and mismanaging its finances.

NGOs must register with the Government by submitting an application and paying approximately $20 (85 NIS). They operate under the laws for nonprofit organizations. If its application is approved after investigation, the NGO receives a license to operate and must register with the tax office to receive tax-exempt status. Registered NGOs are eligible to receive state funding. Some Israeli-Arab NGOs have complained in the past of difficulties in both registering and receiving state funding.

(See annex regarding NGOs in the occupied territories.)

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of sex, marital status, race, political beliefs, or age. Local human rights groups believed that often these laws were not enforced, either due to institutionalized discrimination or lack of resources.

Women.—The Equality of Women Law provides for equal rights for women in the workplace, the military, education, health, housing, and social welfare, and entitles women to protection from violence, sexual harassment, sexual exploitation, and trafficking; however, violence against women was a problem. According to an annual government report released in March, approximately 140,000 women—almost 12 percent of the country's adult women population—reported that they suffered from spousal abuse in 2003. The Ministry of Welfare and several Knesset committees, including the Domestic Violence Committee, have taken steps to address this problem. A wide variety of women's organizations and hotlines provided services to abused

women. One organization reported that it handled approximately 1,300 hotline calls regarding domestic violence in 2003 with calls from women double those from men.

Rape is illegal; NGOs considered the incidence of rape a matter of concern.

In 2001, the Government enacted the Prevention of Stalking Law and amended the Prevention of Family Violence Law to require a number of public and private sector professional personnel to inform suspected victims of their right to turn to the police, welfare service, or Centers for the Prevention of Domestic Violence for assistance. There were no accurate statistics regarding the extent of sexual harassment in the workplace, although there was a dramatic increase in the number of complaints following the enactment of the 1998 law prohibiting sexual harassment. According to a government report issued in July, the 65 cases of sexual harassment recorded in 2003 in the public sector resulted in 12 employees facing internal disciplinary action (warnings) and 2 male employees being forced to resign. Currently, 13 public employees accused of harassment face trial.

According to IDF data, 358 soldiers complained of sexual harassment during the year, an increase of 3 percent from 2003. Male soldiers made 14 of the complaints.

In 2003, a women's organization reported three cases of Arab women killed by male relatives in "honor" cases, and that a Bedouin women's organization suspected 10 cases of women disappearing in the Negev to involve honor killings. There was no accurate estimate of the number of family honor cases as families often attempted to cover up the cause of such deaths.

Prostitution is not illegal; however, the operation of brothels and organized sex enterprises is outlawed.

The law provides for class action suits and requires employers to provide equal pay for equal work, including benefits and allowances; however, women's rights advocates claimed that significant wage gaps remained. According to figures published in March by the Central Bureau of Statistics, men's wages in 2002 were 23 percent higher than women's earnings. Women make up 56 percent of the bottom echelon of wage earners, but they are only 34 percent of the top echelon.

Religious courts adjudicate personal status law. Jewish and Muslim women are subject to restrictive interpretations of their rights in both systems. Jewish women are not allowed to initiate divorce proceedings without their husbands' consent. Consequently, there were estimated to be thousands of so-called "agunot" who may not remarry or have legitimate children because their husbands either disappeared or refused to grant divorces. Rabbinical tribunals may sanction husbands who refuse to divorce wives. A foreign man was jailed for over 2 years because he refused to grant his wife a writ of divorce. Some Islamic law courts in the country have held that a Muslim woman may not request a divorce, but that a woman may be forced to consent if a divorce is granted to the husband.

Children.—Government spending on children was proportionally lower in predominantly Arab areas than in Jewish areas. In December 2003, the Child Welfare Council of Israel published a report that children in the country were growing poorer, and increasingly falling victim to violence, sexual exploitation, and drug and alcohol addiction. In November, the National Insurance Institute's (NIS) annual report on poverty showed that approximately 680,000 children, or 30 percent of the total child population, lived below the poverty line in 2003. However, some economists disputed the NIS' definition of poverty as overly broad. In October the Eli child protection organization reported to a Knesset committee that in 2003 it addressed 3,599 child abuse cases, as compared to 699 in 2000. The group attributed the increase in part to a new law requiring reporting of such abuse. The group claimed that child abuse cases in the country increased five-fold after 2000.

On February 9, Elem, an NGO that aids troubled youth, estimated that there were more than 1,000 women under the age of 18 who work as prostitutes.

Education is compulsory until the child reaches the 10th grade.

The Government operated two school systems: One for secular Jews and Arabs, and one for Orthodox Jews. Ultra-Orthodox Jewish schools, while not a part of the public system, also received government funding. In December, the National Task Force for the Advancement of Education in Israel (the Dovrat Committee) issued a report including recommendations that would affect ultra-Orthodox schools. Ultra-Orthodox political parties, such as the United Torah Judaism, opposed interference by the Government in its school system.

Most Jewish children attended schools where the language of instruction was Hebrew and the curriculum included Jewish history. Most Israeli-Arab children chose schools where the language of instruction was Arabic and the curriculum had less of a Jewish focus. Israeli-Arab advocacy groups charged that Arab children received an education inferior to that of Jewish children in the secular system.

According to the Government's February 2002 report to the U.N., government investment per Arab pupil was approximately 60 percent of investment per Jewish pupil.

High school graduation rates for Arabs were significantly lower than for Jews. According to an Israeli-Arab advocacy group, the percentage of Jews beginning university studies was 21.5 percent compared with 11.5 percent of those defined as "members of other religions," mostly Arabs. Preschool attendance for Bedouin children was the lowest in the country, and the dropout rate for Bedouin high school students was the highest. Arab members of the Knesset have criticized the lower academic achievements of Arab students and stated that this was an indication of discrimination in the system.

The Government has legislated against sexual, physical, and psychological abuse of children and has mandated comprehensive reporting requirements. The sharp increase in reported cases of child abuse in recent years, activists believed, was due to increased awareness rather than a growing pattern of abuse. There were five shelters for children at risk of abuse.

Trafficking in Persons.—The law prohibits trafficking in women for the purpose of sexual exploitation; however, trafficking of women for prostitution remained a serious problem. Trafficking in foreign labor has also been a problem. The penal code stipulates that it is a criminal offense, punishable by between 4 and 20 years imprisonment, to coerce a person to engage in prostitution and makes it a crime to induce a woman to leave the country to "practice prostitution abroad."

The operation of brothels and "organized sex enterprises" is outlawed, as are many of the abuses committed by traffickers and procurers, such as assault, rape, abduction, and false imprisonment; however, brothels operated in several major cities. The law guarantees foreign laborers legal status, decent working conditions, health insurance, and a written employment contract; however, some foreign laborers entered the country under conditions that constituted trafficking. Numerous reports documented foreign laborers living in harsh conditions, subjected to debt bondage, and restricted in their movements.

Organized crime groups trafficked women primarily from the former Soviet Union, sometimes luring these women by offers of service jobs. Foreign laborers came mainly from Southeast Asia, East Asia, Africa, Turkey, Eastern Europe (Romania), and South and Central America. Some women were sold to brothels, forced to live in harsh conditions, subjected to beatings and rape, and reportedly forced to work off transportation costs and other "debts" through sexual servitude. In September, police arrested 40 suspected members of a Russian-Israeli prostitute smuggling ring which, according to a major media report, the police believed had brought hundreds of women into the country over the past decade. According to local NGOs, several hundred women are trafficked into the country annually, but the number decreased from previous years because of increased airport security.

During the year, the Government strengthened its laws for fighting trafficking and established a new border police unit to combat smuggling of persons and drugs across the border with Egypt. A 2003 law provides minimum sentencing requirements for convicted sex traffickers. During the year, the Government filed 89 indictments for trafficking. Also, the police conducted 50 criminal investigations of trafficking and 516 involving related offenses. During the year, the police arrested 103 persons for trafficking, 69 of whom were denied bail. The prosecution division of the Ministry of Trade and Labor filed 309 criminal indictments against employers and manpower firms for violations of labor laws concerned with employment of foreign workers. The Government received 88 judgments against violators during the year, for a combined sum in criminal fines of approximately $3 million (13.5 million NIS).

The Government investigated allegations that individual police officers engaged in misconduct, including taking bribes or tipping off brothels of raids, but these instances of corruption were not widespread.

In February, the Government opened a new, 50-person-capacity shelter for trafficking victims. As of the end of the year, it was almost filled to capacity, and NGOs claimed that additional shelters were needed. The Government continued to provide some victims with lodging in police-funded hostels, minimal financial assistance, and access to medical care. Trafficking victims who are willing to assist in prosecuting traffickers, are not prosecuted or fined for illegal entry or for the possession of fraudulent documents, and receive visas and permits. According to the Government, during the year, 108 trafficking victims chose to testify, compared to 81 victims in 2003. In August 2003, the State Attorney's office, the police, and the Knesset urged the courts to speed up the process of taking testimony from trafficking victims; the law stipulates that testimony must be taken within 2 months of the indictment of suspected traffickers, but some victims have waited as long as 18 months.

In comparison with previous years, the Government increased its campaign to combat trafficking, and cooperated with local NGOs to launch an information campaign in countries of origin. With assistance of NGOs, the Government distributed brochures through its embassies in such source countries as Moldova and Uzbekistan, warning potential victims of the threat.

Persons With Disabilities.—The Government provided a range of benefits, including income maintenance, housing subsidies, and transportation support for persons with disabilities, who constituted approximately 2.4 percent of the population. Existing antidiscrimination laws do not prohibit discrimination based on disability, and persons with disabilities continued to encounter difficulties in areas such as employment and housing. A law requiring access to public buildings for persons with disabilities was not widely enforced and accessibility of public transportation was not legally mandated. A 2002 survey of buildings by the Commissioner for Equality for the Disabled indicated that most building owners have ignored access laws for persons with disabilities. The commissioner also accused the Government of not adequately providing for the employment needs of the persons with disabilities, despite legal requirements to do so. In December 2003, the Attorney General told the Knesset committee that laws protecting and assisting persons with disabilities were not being implemented due mainly to a lack of funding.

National/Racial/Ethnic Minorities.—The Orr Commission of Inquiry's report (*see* Section 1.a.) stated that the "Government handling of the Arab sector has been primarily neglectful and discriminatory," that the Government "did not show sufficient sensitivity to the needs of the Arab population, and did not take enough action to allocate state resources in an equal manner." As a result, "serious distress prevailed in the Arab sector in various areas. Evidence of distress included poverty, unemployment, a shortage of land, serious problems in the education system, and substantially defective infrastructure."

In June, the Government adopted the proposals of a special ministerial committee on implementing the Orr Commission's recommendations, including the establishment of a government body to promote the Arab sector, the creation of a volunteer, national civilian service program for Arab youth, and the creation of a day of national tolerance. At year's end, the Government had not implemented these proposals.

In December, the Knesset established a new subcommittee charged with monitoring the needs of the Israeli-Arab sector and advocating necessary alterations in the budget. The subcommittee is to be chaired by an Israeli-Arab Knesset member.

In November, the Israeli-Arab advocacy NGO Sikkuy's annual report stated that 45 percent of Arab families were poor, in contrast to 15 percent of Jewish families, and that the rate of infant mortality in the Arab sector was 8 out of 1,000 births—twice that of the Jewish population. According to Human Rights Watch, during the year, the Government provided 1 teacher for every 16 Jewish primary school children compared to 1 teacher for every 19.7 Arab children.

According to a report by Mossawa, racist violence against Arab citizens has increased, and the Government has not done enough to prevent this problem. The annual report cited 17 acts of violence by Jewish citizens against Arab citizens. In October, police arrested two 15-year-old boys for allegedly assaulting and harassing Arabs several months earlier. The two youths reportedly have admitted to the allegations against them. Advocacy groups charged government officials with making racist statements. In December, Knesset member Yehiel Hazan likened Arabs to "worms" in a speech in the Knesset on a terrorist attack. The Attorney General declined to open investigations into incitement by several public figures, including Hazan.

In June, the Jerusalem District Court filed six indictments against fans of a local soccer team for shouting "death to the Arabs" at the local stadium. In May, then-Transportation Minister Avigdor Lieberman publicly advocated the transfer of Israeli-Arab communities to the occupied territories. A Haifa University poll released in June revealed that over 63 percent of Jews believed that the Government should encourage Israeli Arabs to emigrate.

Approximately 93 percent of land in the country was public domain, including that owned by the state and some 12.5 percent owned by the Jewish National Fund (JNF). All public land by law may only be leased, not sold. The JNF's statutes prohibit the sale or lease of land to non-Jews. In October, civil rights groups petitioned the High Court of Justice claiming that a bid announcement by the Israel Land Administration (ILA) involving JNF land was discriminatory in that it banned Arabs from bidding. The ILA halted marketing JNF land in the North and the Galilee. In December, Adalah petitioned the High Court to annul definitively the ILA policy. At year's end, there had been no court action.

The Jewish community of Katzir had refused to provide an Israeli-Arab family, the Ka'adans, with title to a plot of land. In 2000, the High Court of Justice ruled that the Government cannot discriminate against Israeli Arabs in the distribution of State resources, and that the ILA must provide the Ka'adans with the plot they wanted to buy. According to ACRI, the Ka'adans will be able to sign a lease upon payment of a development fee to the local municipality.

Israeli-Arab advocacy organizations have challenged the Government's policy of demolishing illegal buildings in the Arab sector, and claimed that the Government was more restrictive in issuing building permits in Arab communities than in Jewish communities, thereby not accommodating natural growth. In February, security forces demolished several homes allegedly built without authorization in the Arab village of Beineh (*see* Section 1.c.). The Orr Commission found that "suitable planning should be carried out [in the Arab sector] as soon as possible to prevent illegal construction... " A ministerial committee, created to advise the Government on implementing the Orr Commission recommendations, called on the ILA to complete master plans for Arab towns, some half of which currently lack such plans. In towns without plans, and in 46 unrecognized Bedouin villages, building permits are not legally available. Israeli-Arab advocacy organizations have challenged the Government's plan to demolish more illegal buildings in areas in which it is not possible to obtain building permits.

In June, the Supreme Court ruled that omitting Arab towns from specific government social and economic plans is discriminatory. This judgment builds on previous assessments of disadvantages suffered by Arab Israelis.

Israeli-Arab organizations have challenged as discriminatory the 1996 "Master Plan for the Northern Areas of Israel," which listed as priority goals increasing the Galilee's Jewish population and blocking the territorial contiguity of Arab towns. Objections were presented at a hearing in March 2003, but there was no response from the National Council for Building and Planning. The plan had not been implemented at year's end.

On February 25, security forces demolished several homes in the Arab village of Beineh, claiming that the houses were built illegally. Adalah filed a complaint in April with the Ministry of Justice charging that security forces assaulted residents of Beineh in their homes and caused widespread property damage during the demolitions. At year's end, the Justice Ministry was still investigating the incident.

Israeli Arabs were underrepresented in the student bodies and faculties of most universities and in higher professional and business ranks. The Bureau of Statistics noted that the median number of school years for the Jewish population is 3 years more than for the Arab population. Well educated Arabs often were unable to find jobs commensurate with their level of education. According to Sikkuy, Arab citizens held approximately 60 to 70 of the country's 5,000 university faculty positions. A small number of Israeli Arabs have risen to responsible positions in the civil service, generally in the Arab departments of government ministries. In September 2003, the Government approved an affirmative action plan to promote the hiring of Israeli Arabs in the civil service. However, according to Civil Service Commission data, only 5.05 percent of civil servants are Arab or Druze and only 193 of the 4,531 civil servants hired in 2003 were non-Jewish.

In January, in order to implement a 2000 law requiring that minorities be granted "appropriate representation" in the civil service and on the boards of government corporations, Prime Minister Sharon mandated that every state-run company's corporate board must have at least one Arab member by August. In June, the media reported that the number of Arabs sitting on the boards of state corporations actually had declined. According to data from the Government Companies Authority, Arabs were only 36 out of the 544 board members of state-run companies.

Israeli Arabs continued to complain of discriminatory treatment at the airport. In February, Ben Gurion Airport security officials singled out the editor of an Arab weekly, Lutfi Mashour, from his Jewish colleagues for additional security checks before he could join the press entourage, whose individual members President Moshe Katsav had invited to accompany him to Paris. Mashour refused to subject himself to the checks, and security officials prevented him from accompanying the President.

Israeli Arabs were not required to perform mandatory military service and, in practice, only a small percentage of Israeli Arabs served in the military. Those who did not serve in the army had less access than other citizens to social and economic benefits for which military service was a prerequisite or an advantage, such as housing, new-household subsidies, and employment, especially government or security-related industrial employment. Regarding the latter, for security reasons, Israeli Arabs generally were restricted from working in companies with defense contracts or in security-related fields. In December, the Ivri Committee on National

Service issued official recommendations to the Government that Israel Arabs not be compelled to perform national or "civic" service, but be afforded an opportunity to perform such service.

The Israeli Druze and Circassian communities were subject to the military draft, and the overwhelming majority accepted service willingly. Some Bedouin and other Arab citizens who were not subject to the draft served voluntarily.

The Bedouin sector was the weakest of all the population groups in the country. The COI report called for "special attention" to the living conditions of the Bedouin community. Approximately 140,000 Bedouin live in the Negev; half in 7 state-planned communities, and the rest in 46 unrecognized settlements. The recognized Bedouin villages received basic services, but remained among the poorest communities in the country. According to a media report, some "60 percent of the community's babies are not inoculated, the school dropout rate is exceedingly high, and 31 percent of school-age children in unrecognized settlements are illiterate." According to PHR, the unrecognized villages were not connected to national infrastructure and lacked basic services.

In March, the Supreme Court issued a temporary injunction to prevent the ILA from spraying herbicide on Bedouin crops in unrecognized villages. Adalah alleged that the herbicide has caused adverse health effects; the ILA claimed that the crops were planted illegally on state-owned land.

During the year, the Government began to implement a plan to relocate Bedouin living in unrecognized villages to seven new townships. Nearly two-thirds of the plan's $225 million (1 billion NIS) allocation is earmarked for "environmental law enforcement in the Negev," which included resources for crop-spraying and home demolitions.

Government planners noted that funds to complete the seven new townships were far from sufficient, and that the average Bedouin family did not have adequate funds to purchase a home there. Clashes between authorities and residents of unrecognized villages have escalated over the past year, resulting in one Bedouin resident of the village of Atir killed during a clash with a government home-demolition unit.

In July, the Government extended for 6 months the 2003 Citizenship and Entry into Israel Law, which bars Palestinians from the occupied territories from acquiring residence or citizenship rights through marriage to Israelis. Several civil rights groups petitioned the High Court arguing that the law has a disproportionate effect on the country's Arab citizens. The ISA recommended the law based on its allegation that in some 20 cases Palestinian spouses of Arab citizens were involved in terrorist activity. Advocacy groups stated that approximately 16,000 residency applications have been affected. In August, the Attorney General informed the court that the Government may amend the law in February 2005 to widen exceptions to the ban. In December, the court ruled that it would wait to review these amendments before ruling on the legality of the law.

Other Societal Abuses and Discrimination.—In June, bystanders verbally harassed participants in a gay pride parade in Jerusalem. At the same time, a photograph and the telephone number of a homosexual Jerusalem city council member was plastered on that city's billboards along with accusations that he would bring disaster to Jerusalem. Anonymous callers threatened to bomb the parade; however, there was no violence.

In 2003, the Association of Gay Men, Lesbians, Bisexuals, and Transgendered in Israel complained of several incidents in which police allegedly engaged in verbal and physical harassment of homosexuals in a Tel Aviv public park. Representatives of that organization subsequently met with the police to discuss ways to improve relations, and the police appointed contact persons in all police districts who serve as liaisons to the homosexual community. No similar complaints were reported during the year.

Section 6. Worker Rights

a. The Right of Association.—Citizen workers may join and establish labor organizations freely. Most unions belong to Histadrut (the General Federation of Labor in Israel) or to a much smaller rival federation, the Histadrut Haovdim Haleumit (National Federation of Labor). These organizations are independent of the Government. Histadrut members elect national and local officers and officials of its affiliated women's organization, Na'amat, from lists of those already in the union. Plant or enterprise committee members are elected individually. Approximately 650,000 workers were members of Histadrut during the year, and much of the non-Histadrut work force was covered by Histadrut's collective bargaining agreements.

Nonresident workers, including Palestinians from the West Bank and Gaza Strip, were not able to join Israeli trade unions or organize their own unions in Israel. Nonresident workers in the organized sector were entitled to the protection of

Histadrut work contracts and grievance procedures. They may join, vote for, and be elected to shop-level workers' committees if their numbers in individual establishments exceed a minimum threshold. Palestinian participation in such committees was minimal.

Labor laws apply to Palestinians holding East Jerusalem identity cards and to the Syrian Druze living on the Golan Heights.

Unions were free to affiliate with international organizations.

b. The Right to Organize and Bargain Collectively.—Citizen workers exercised their legal rights to organize and bargain collectively. The law specifically prohibits antiunion discrimination. No antiunion discrimination was reported.

Nonresident workers could not organize their own unions or engage in collective bargaining, but they were entitled to be represented by the bargaining agent and protected by collective bargaining agreements. The country's immigration officials estimated there were approximately 200,000 foreign workers in the country. They did not pay union dues, but were required to pay an agency fee in lieu of dues, which entitled them to union protection by Histadrut's collective bargaining agreements. The Ministry of Labor has the authority to extend collective bargaining agreements to nonunionized workplaces in the same industrial sector. The Ministry of Labor also oversaw personal contracts in the unorganized sectors of the economy.

The right to strike was exercised regularly. Unions must provide 15 days' notice prior to a strike. The law protected strike leaders—even those organizing illegal strikes. If essential public services are affected, the Government may appeal to labor courts for back-to-work orders while the parties continue negotiations. Worker dismissals and the terms of severance arrangements often were the central issues of dispute. During the year, there were several major strikes of municipal workers. For example, on September 21, Histadrut called a nationwide strike over unpaid public sector wages to some 20,000 local government workers, reportedly involving 400,000 workers. Agreement was reached whereby the Government would pay grants to the local authorities in accordance with a recovery plan. During July, the port workers conducted strikes over a period of weeks to protest the Government's intentions to implement port reforms. In July, the country's Manufacturers Association reported that the strikes had caused approximately $400 million (2 billion NIS) in economic damages.

There are no export processing zones. In December, the country signed an agreement with Egypt to establish a "Qualified Industrial Zone" (QIZ), which creates duty-exempt zones to facilitate joint manufacturing between Israel and Egypt for exports to the United States. Egyptian labor laws apply since the factories are located in Egypt. A comparable QIZ was established with Jordan in 1998.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred for citizens or nonresident Palestinians working in Israel; however, civil rights groups charged that unscrupulous employers often took advantage of illegal workers' lack of status to hold them in conditions that amount to involuntary servitude (*see* Section 6.e.).

Women were trafficked for the purpose of prostitution (*see* Section 5, Trafficking).

d. Prohibition of Child Labor and Minimum Age for Employment.—Children at least 15 years old, who have completed their education up to grade 10, may be employed as apprentices only, according to the Apprenticeship Law. Children who are 14 years old may be employed during official school holidays in light work that will not harm their health. Working hours of those 16 to 18 years of age are restricted to ensure time for rest and education. The Government enforced these restrictions in practice.

No reliable data existed regarding illegal child workers, although it is believed they exist to a small degree, primarily in urban, light industry. Previously, there were reports of illegal child labor in the country's undocumented Palestinian population; however, with the greatly reduced Palestinian workforce, such reports could no longer be confirmed.

e. Acceptable Conditions of Work.—The minimum wage was calculated periodically and adjusted for cost of living increases. During the year, the minimum wage was approximately 47.8 percent of the average wage. At year's end, the minimum wage was approximately $900 (3,335 NIS) per month. During the year, the minimum wage often was supplemented by special allowances for citizens and was considered by the Government to be sufficient to provide a citizen worker and family with a decent standard of living. Some union officials and social commentators disputed that. Union officials expressed concern over enforcement, particularly with respect to employers of illegal nonresident workers.

By law, the maximum hours of work at regular pay are 42.5 hours a week, 8 hours a day, and 7 hours in night work on the day before the weekly rest. That rest period must be at least 36 consecutive hours and include the Sabbath for Jews and a choice of Friday, Saturday, or Sunday for non-Jews.

Employers must receive a government permit to hire Palestinian workers from the occupied territories, and, to do so, must make a case that no citizen is available for the job. All Palestinians from the occupied territories working legally in Israel were employed on a daily basis and, unless they were employed on shift work, were not authorized to spend the night in Israel. Palestinians without valid work permits were subject to arrest.

Palestinian employees, whose Israeli employers recruited them through the Ministry of Labor, received their wages and benefits through that ministry. Palestinian workers were not eligible for all National Insurance Institute (NII) benefits although the ministry deducted a union fee and required contributions to the NII. Palestinians, paid through the Labor Ministry, continued to be entitled to maternity leave and were insured for injuries suffered while working in the country and for any wages lost by bankruptcy of a worker's employer. They did not, however, receive unemployment insurance, general disability payments, or low-income supplements. Palestinians, who were not employed through the Labor Ministry, were paid directly by their Israeli employers.

Since 1993, the Government has agreed to transfer the NII fees collected from Palestinian workers to the Palestinian Authority (PA), which was to assume responsibility for all the pensions and social benefits of Palestinians working in Israel. According to the Government, these funds were unfrozen and transferred to the PA at the beginning of 2003, when mechanisms for transferring the funds and mechanisms for providing these services in the PA controlled territories were established.

Following the outbreak of violence in 2000, the Government implemented a closure policy on the occupied territories, which prevented nearly all Palestinians from getting to their places of employment in Israel (*see* Section 2.d.). As of midyear, the Government issued approximately 15,000 work permits for Palestinian day laborers, of which approximately 12,500 were used by Palestinians to cross into Israel.

Along with union representatives, the Labor Inspection Service enforced labor, health, and safety standards in the workplace, although resource constraints, such as insufficient staffing, affected overall enforcement. Legislation protects the employment rights of safety delegates elected or appointed by the workers. In cooperation with management, these delegates were responsible for safety and health in the workplace.

Workers did not have the legal right to remove themselves from dangerous work situations without jeopardy to continued employment. However, collective bargaining agreements provided some workers with recourse through the work site labor committee. Any worker may challenge unsafe work practices through government oversight and legal agencies. Continuing NGO and police reports charged that illegal workers often lived in situations amounting to involuntary servitude, due primarily to their tenuous legal status and lack of recourse. NGOs noted cases in which the police injured foreign workers during arrest. In July, the immigration police reportedly raided a factory on Kibbutz Ramat Hakovesh and found eight allegedly illegally employed Thai workers living in harsh conditions.

Public debate continued regarding the role in the workplace and society of non-Palestinian foreign workers, whom the Government estimated as approximately 189,000 at the end of 2003. According to the Government, most of these workers entered the country illegally or overstayed their visas, with illegal migrant workers reaching 104,000. The Government estimated that, during the year, approximately 45,000 illegal migrant workers left the country, with approximately 19,000 deported and the rest departing voluntarily. Currently, the Government estimated that approximately 60,000 to 70,000 workers employed illegally still resided in the country. The majority of such workers came from Eastern Europe and Southeast Asia and worked in the construction and agricultural sectors, and as domestic help. During the year, the Government sought to restrict the entry and stay of new and resident workers.

The law does not permit foreign workers to obtain citizenship or permanent residence status unless they are Jewish.

In May, the Minister of Interior halted the deportation of any illegal foreign workers' children, age 10 and above and who were born and raised in the country, until a ministerial panel formulated a policy for naturalizing children in these circumstances. During the year, the Government allowed over 2,300 foreign laborers to change employers.

NGOs alleged that foreign workers were being lured to the country with the promise of jobs that did not exist. Some foreign workers reportedly paid up to

$10,000 (45,000 NIS) to employment agencies to obtain work permits. According to NGOs, in a significant number of cases workers were dismissed shortly after arriving. Allegedly, the manpower companies worked with deportation authorities to deport the newly arrived workers, who were then replaced by others, earning the companies more fees. NGOs argued that most workers expected to work for some time in the country to recoup their initial payments; those dismissed often sought illegal employment and some committed suicide.

Illegal foreign workers facing deportation were brought before a special court, and workers may contest the deportation orders. Many workers lacked fluency in Hebrew, which hindered the process. In March, in response to judicial criticism about the protracted detention of foreign workers, the Attorney General directed that detained foreign workers must be brought before the court within 4 days of arrest, and not the 2 weeks stipulated by law. NGOs existed to aid workers facing deportation, and there have been cases in which the worker's status was reinstated. The court also provided a forum where workers subject to deportation orders can lodge claims for unpaid wages or other benefits to which they are entitled by law. Workers were often deported before they could lodge such claims. NGOs noted cases in which the police injured foreign workers during arrest. In some cases, these NGOs claimed, the workers were injured so seriously that they were not ultimately detained, due to the potential cost of care for their injuries and police fears of possible investigation of police misconduct. In 2003, at least one foreign worker killed himself while in detention; however, there were no such cases during the year.

In 2002, the editor of the foreign worker newspaper Manila-Tel Aviv Times was deported shortly after giving interviews to other publications on the subject of foreign worker rights under the law; foreign worker advocates claimed the deportation was politically motivated. During 2003, another reporter from the publication was deported after advising foreign workers in an article on strategies for avoiding detention and deportation. Human rights groups claimed that since foreign worker residency permits were tied to specific employment, even legal foreign workers had little leverage to influence their work conditions. However, there were no comparable deportation actions during the year, and the newspaper continued to operate.

THE OCCUPIED TERRITORIES
(INCLUDING AREAS SUBJECT TO THE JURISDICTION OF THE PALESTINIAN AUTHORITY)

Israel occupied the West Bank, Gaza Strip, Golan Heights, and East Jerusalem during the 1967 War. Pursuant to the May 1994 Gaza-Jericho Agreement and the September 1995 Interim Agreement, Israel transferred most responsibilities for civil government in the Gaza Strip and parts of the West Bank to the newly created Palestinian Authority (PA). The 1995 Interim Agreement divided the territories into three types of areas denoting different levels of Palestinian Authority and Israeli occupation control. Since Palestinian extremist groups resumed the use of violence in 2000, Israeli forces have resumed control of a number of the PA areas, citing the PA's failure to abide by its security responsibilities.

The body of law governing Palestinians in the occupied territories derives from Ottoman, British Mandate, Jordanian, and Egyptian law, and Israeli military orders. Laws and regulations promulgated by the PA also are in force. Israeli settlers were subject to Israeli law.

The Palestinian Authority now has a democratically elected President and Legislative Council, which elects a Prime Minister and Cabinet. Following the death of PA Chairman Yasir Arafat on November 11, an election for PA president was scheduled for January 9, 2005. Seven candidates competed in a vigorous election campaign throughout the occupied territories. Municipal elections were held in selected West Bank localities on December 23—the first since 1976. Future rounds of municipal elections were scheduled for 2005. New Palestinian Legislative Council elections were scheduled for July 17, 2005.

Israel exercised occupation authority through the Israeli Ministry of Defense's Office of Coordination and Liaison (MATAK).

Violence associated with the Intifada has claimed the lives of 3,517 Palestinians, according to the Palestine Red Crescent Society (PRCS), 1,051 Israelis, according to the Israeli Ministry of Foreign Affairs website, and 52 foreign nationals, according to B'tselem, an Israeli human rights organization that monitors the occupied territories. During the year, over 800 Palestinians were killed during Israeli military operations in the occupied territories, a total of 76 Israeli civilians and 4 foreigners were killed in terrorist attacks in both Israel and the occupied territories, and 41 members of the Israeli Defense Forces were killed in clashes with Palestinian militants.

The Palestinian security forces included the National Security Forces (NSF), the Preventive Security Organization (PSO), the General Intelligence Service, or Mukhabarat, the Presidential Security Force, and the Coastal Police. Other quasi-military security organizations, such as the Military Intelligence Organization, also exercised de facto law enforcement powers. Palestinian police were normally responsible for security and law enforcement for Palestinians and other non Israelis in PA-controlled areas of the West Bank and Gaza Strip. Palestinian security forces were under the authority of the PA. Members of the PA security forces committed numerous, serious abuses.

Israeli security forces in the West Bank and Gaza Strip consisted of the Israeli Defense Forces (IDF), the Israel Security Agency (Shin Bet), the Israeli National Police (INP), and the Border Police, an operational arm of the Israel National Police that is under IDF command when operating in the occupied territories. Israeli military courts tried Palestinians accused of security offenses. Israeli security forces were under effective government control. Members of the Israeli security forces committed numerous, serious abuses.

The population of the Gaza Strip was approximately 1.4 million, of the West Bank (excluding East Jerusalem) approximately 2.4 million, and of East Jerusalem approximately 414,518, including 177,333 Israelis. The economy of the West Bank and Gaza Strip is small, underdeveloped, and highly dependent on Israel and international assistance. The continuing conflict, including Israeli curfews and closures, severely affected the economy.

The PA's overall human rights record remained poor, and it continued to commit numerous, serious abuses. There were credible reports that PA officers engaged in torture, prisoner abuse, and arbitrary and prolonged detention. Conditions for prisoners were poor. PA security forces infringed privacy and freedom of speech and press. The PA did not take available measures to prevent attacks by terrorist groups either within the occupied territories or within Israel. Impunity was a serious problem. Domestic abuse of women persisted. Societal discrimination against women and persons with disabilities and child labor remained problems.

There were reports that Israeli security forces used excessive force, abused and tortured detainees. Conditions in permanent prisons met international standards, but temporary facilities were austere and overcrowded. Many Israeli security personnel were prosecuted for committing abuses, but international and Israeli human rights groups complained of lack of disciplinary action in a large number of cases.

The Israeli Government continued construction of a security barrier along parts of the Green Line (the 1949 Armistice line) and in the West Bank. The PA alleged that the routing of the barrier resulted in the taking of land, isolating residents from hospitals, schools, social services, and agricultural property. Israel asserts that it has sought to build the barrier on public lands where possible, and where private land was used, provided opportunities for compensation. Palestinians filed a number of cases with the Israeli Supreme Court challenging the routing of the barrier. In June, the Court ruled that a section of the barrier must be rerouted; determining that the injury caused by the routing of the barrier did not stand in proper proportion to the security benefits; various portions of the barrier route were rerouted. On July 9, the International Court of Justice issued an advisory opinion, concluding that "The construction of the wall built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem and its associated regime, are contrary to international law."

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Killings by Palestinian and Israeli security forces and by Israel settlers and Palestinian militant groups remained a serious problem.

'Imran Abu Hamdiyah, a 17-year-old Palestinian, was found dead in Hebron in December 2002. In April 2003, four Israeli Border Police officers were arrested on charges that they had beaten Hamdiyah and then dumped him from their moving vehicle, causing fatal injuries. At year's end, a trial begun in 2003 was reportedly still ongoing.

Three U.S. security personnel in a diplomatic convoy were killed in an attack in October 2003. At year's end, there had been no progress by the PA's investigative team, and the case remains unsolved.

On May 2, Palestinians belonging to the al-Aqsa Martyrs' Brigades and the Islamic Jihad shot and killed Tali Hatuel, an Israeli settler and her four daughters in the Gaza Strip when their car spun off the road after a shooting. An Israeli trav-

eling in a separate car and two IDF soldiers were injured before the gunmen were killed.

On August 2, grenades were thrown into a room holding suspected Palestinian collaborators in the Gaza Central Prison. Two Palestinian prisoners were killed, and six others were injured. Palestinian security officials arrested two policemen, who allegedly had carried out the attack on behalf of Hamas. At year's end, no further legal action had been taken against the two police officers.

On September 20, gunmen belonging to the al-Aqsa Martyrs' Brigades shot and killed Rami Yaghmour near Ramallah, alleging that Yaghmour had collaborated with Israel. The PA security services arrested two persons who were subsequently released.

On September 27, an Israeli settler, Yehoshua Elitzur, shot and killed Palestinian taxi-driver Sa'al Jabara near Nablus. According to witnesses, Elitzur shot Jabara at close range after he had slowed his car to ask whether Elitzur needed assistance. On October 25, Elitzur was indicted in Tel Aviv District Court.

On October 1, according to a Palestinian human rights group, 10 unknown individuals in military uniforms entered the central prison in Nablus and killed 2 prisoners.

On October 7, gunmen belonging to al-Aqsa entered a hospital in Ramallah, kidnapped a Palestinian accused of collaboration, shot him, and left his body on the street.

On October 11, an assailant believed to be an Israeli settler shot and seriously wounded Palestinian farmer Hani Shadeh, 26, after Shadeh engaged in an argument with settlers. Local Palestinians said that settlers had cut down approximately 1,000 olive trees in an effort to drive Palestinians from their farmland.

On October 27, an Israeli settler shot and killed 18-year-old Salman Yussuf Safadi near the settlement of Yizhar. The settler initially claimed that Safadi attempted to enter his home, but later said that the Palestinian was not in his home when he shot him. Settlers placed spikes in the road that prevented an ambulance from reaching Safadi before he died. The Israeli police opened an investigation into both the shooting and the obstruction of the ambulance; however, at year's end, there were no public results.

On December 27, a Palestinian male was found dead outside Ramallah. Al-Aqsa claimed responsibility for killing the suspected collaborator.

b. Disappearance.—There were no reports of politically motivated disappearances during the year.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Article 13 of the PA Basic Law prohibits the use of torture or force against detainees; however, international human rights groups stated that the use of torture was widespread and not restricted to those persons detained on security charges.

Torture by PA security forces reportedly was widespread. Documentation of abuses was very limited, due partly to the hesitancy of alleged victims to file or make public claims of torture or abuse against PA authorities. Palestinian security officers have no formal guidelines regarding the proper conduct of interrogations; most convictions were based largely on confessions.

Israeli law, as interpreted by a 1999 High Court of Justice decision, prohibited torture and several interrogation techniques, such as violent shaking, holding and tying of prisoner in painful positions, shackling, sleep deprivation, covering the prisoner's head with a sack, playing loud music, and prolonged exposure to extreme temperatures, but allowed "moderate physical pressure" against detainees considered to possess information about an imminent attack. However, CATI and the Physicians for Human Rights in Israel (PHR) reported that techniques prohibited by the law were used against Palestinian detainees during interrogation and that security forces often beat Palestinians during arrest and transport. Israeli law prohibits the admission of forced confessions, but most convictions in security cases were based on confessions made before legal representation was available to defendants.

A detainee may not have contact with a lawyer until after interrogation, a process that may last weeks. The International Committee of the Red Cross (ICRC) is notified of arrests 12 days after they take place, and the ICRC is allowed to visit detainees 14 days after their arrest. Detainees sometimes stated in court that their confessions were coerced, but there were no instances when judges excluded such confessions.

In January, at the Huwwara checkpoint, an IDF sergeant handcuffed and beat a Palestinian man in front of his family. The man was then removed to a hut and further beaten. The incident was taped by an IDF video team. The sergeant was convicted by a military judicial panel in September, sentenced to 6 months in jail, and demoted to the rank of private; he also admitted beating at least 8 other Pal-

estinians and smashing windshields of 10 taxicabs from mid-January until the end of February.

On May 23, a PA prison guard at a facility in Jericho severely beat a prisoner with a metal ruler, according to a witness. The witness also saw several other guards and nonuniformed individuals taking part.

On May 24, another witness in the same facility observed a prisoner being beaten with a nightstick. The prison governor claimed that the prisoner had provoked the initial beating by taunting the guards, but he refused to explain the presence of other guards and plainclothes individuals during the beating.

The Public Committee Against Torture in Israel (PCATI) reported that on July 6, a Palestinian inmate at the Gilboa Prison poured a hot substance on an Israeli prison official. In response, prison officials allegedly forced the cellblock inmates to kneel with their hands tied behind their backs and beat them, resulting in numerous injuries. At of year's end, PCATI had not received a response from the prison authorities regarding this incident.

On September 26, the Israeli Justice Ministry filed indictments against five Border Policemen accused of severely abusing two Palestinians detained for lacking the necessary permits in Abu Dis earlier in September. According to the indictment, the border policemen forced the two Palestinians into a building and beat one with rifles, boots, and fists before forcing him to jump out of a second floor window. The border policemen allegedly burned the second Palestinian with a cigarette and forced him to drink urine. The policemen then allegedly threw the Palestinian's papers into a puddle of urine and ordered him to pick up his papers with his mouth and tongue. They then threw him out the same second story window. At year's end, further legal action remained pending.

In February 2003, Israeli authorities arrested Daoud Dirawi, a Palestinian lawyer, for being in Jerusalem without proper identification. Dirawi told his lawyer that soldiers beat him severely on the way to the Asyun military prison in the Negev. In March 2003, Israel sentenced Dirawi to 6 months of administrative detention. He was released in August.

Israeli soldiers on patrol in June 2003 allegedly attacked 20 Palestinian youths, who were trying to cross a dirt road near a military checkpoint north of Jerusalem. The soldiers allegedly beat the youths with their rifles and threw several of them in a sewage ditch before leaving the scene.

In June 2003, Israeli Border Police in Tulkarm took the identity card of shepherd Nazih Salah 'Awad Damiri, 24, and forced him to mime sexual intercourse with his donkey.

In November 2003, IDF soldiers at the Huwwara checkpoint outside Nablus demanded that two Palestinians stop and clean the checkpoint. When the men refused, the soldiers handcuffed, blindfolded, and detained them for several hours. When B'tselem investigated the incident, the soldiers admitted to the action and claimed their superiors had ordered them to do it. B'tselem has requested an official investigation of the incident; however, at year's end, there was no response to their request.

PA prison conditions were poor. Facilities were old, dilapidated, and neglected. Most prison facilities were destroyed during the Intifada, and prisoners were kept informally in houses or other buildings. There were separate facilities to hold juvenile prisoners. Prison facilities were poorly protected and subject to intrusions by outsiders. The PA generally permitted the ICRC access to detainees and allowed regular inspections of prison conditions; however, the PA denied access to some detainees for 14 days following their arrests. The PA permitted independent monitoring of its prisons, although human rights groups, humanitarian organizations, and lawyers reported difficulties arranging visits or gaining access to specific detainees. Human rights organizations stated that their ability to visit PA prisons and detention centers varied depending on which security organization controlled the facility. Human rights monitors stated that prison authorities did not consistently permit them to have access to PA detention facilities and that they rarely were permitted to see inmates while they were under interrogation.

The conditions of Israeli permanent prison facilities generally met international standards. The standards were less likely to be met in provisional detention centers, because prison facilities refused to take new inmates when their maximum capacity was reached. The detention and interrogation facilities for Palestinian detainees, including the four interrogation centers (Shikma, Kishon, Petah Tikva, and the Jerusalem Internment Center) were austere, overcrowded, provisional facilities. Israel held at least 121 Palestinian prisoners in some form of solitary confinement. Israel permitted independent monitoring of prison conditions by the ICRC and other groups, although human rights groups reported delays and difficulties in gaining access to specific detainees. Male family members between 16 and 40 years of age,

and any family members with security records, usually were barred from visiting relatives in Israeli facilities. According to the ICRC, between January and May, 3,517 detainees in Israel, Gaza, and the West Bank had visits from family members.

The NGO, Palestinian Prisoners Club, had approximately 820 medical cases in Israeli prisons. During the year, approximately 57 cases required urgent medical attention. Following the August 18 hunger strike, Israeli authorities provided increased medical attention; however, prisoners continued to claim that it was inadequate. Several private doctors were authorized to visit prisoners.

d. Arbitrary Arrest or Detention.—The 2001 PA Criminal Procedures Law allows police to hold detainees without charges for 24 hours. Court approval is necessary for detention without charges for a maximum of 45 days. A trial must start within 6 months of arrest or the detainee must be released. In practice, however, many Palestinians were held in detention without charge for months.

PA security forces detained persons without informing judicial authorities, and often ignored laws that protect the rights of detainees and court decisions calling for the release of alleged security criminals. At year's end, Palestinian sources estimated that between 250 and 300 suspected collaborators were held in PA prisons. Alleged collaborators often were held without presentation of evidence to a court and were denied access to lawyers, their families, or doctors.

Under applicable occupation orders, Israeli security personnel may arrest without warrant or hold for questioning a person suspected of having committed or to be likely to commit a security related offense. Israeli Military Order 1507 permits the Israeli army to detain persons for 10 days, during which detainees are barred from seeing a lawyer or appearing before court. Administrative detention orders could be issued for up to 6-month periods and could be renewed indefinitely by judges. No detainee has ever successfully appealed a detention order. Israeli military Order 1369 provides for a 7 year prison term for anyone who does not respond to a special summons in security cases. Suspects are entitled to an attorney, but this can be deferred during the interrogation phase, which sometimes lasts up to 90 days. Israeli authorities stated that they attempted to post notification of arrests within 48 hours, but senior officers may delay notification for up to 12 days. Additionally, a military commander may appeal to a judge to extend this period in security cases for an unlimited period, and many families reported serious problems in learning of the status and whereabouts of prisoners. Evidence used at hearings for administrative detentions in security cases was often unavailable to the detainee or his attorneys due to security classification.

The Israeli Government maintained that it held no political prisoners, but Palestinians claimed that administrative detainees were political prisoners. At year's end, Israel held approximately 8,300 Palestinian security prisoners (up from 5,900 in 2003), of which at least 960 were in administrative detention.

During the year, Israel did not conduct mass detentions in the West Bank as had been the case in the past; arrest operations were geared more toward specific persons. Israeli authorities intermittently issued special summonses for those suspected of involvement in or knowledge of security offenses.

Palestinians transferred to prison facilities in Israel had difficulty obtaining legal representation because only Israeli citizens or Palestinian lawyers with Jerusalem identification cards were permitted to visit them. However, during the year, procedures were revised to permit more lawyers to have access to the prisons. Israeli authorities in some instances scheduled appointments, but they subsequently moved the clients to another prison to delay lawyer client meetings for as long as 90 days.

The Government of Israel frequently failed to notify foreign consular officials in a timely manner when their citizens were detained.

In contrast to past practice, during the year, Israel did not forcibly transfer Palestinians from the West Bank to the Gaza Strip. On August 27, Israel allowed Kifah Ajouri, a Fatah activist who was forcibly transferred to Gaza in 2002, to return to his home in Nablus. Mahmud Suleiman Sa'id al-Sa'di al-Saffouri was transferred to Gaza from Jenin in May 2003 and was required to remain in the Gaza Strip.

Amnesty International (AI) noted that Muhammad Hassan Mustafa al-Najjar was administratively detained for the fourth consecutive time on May 20. Subsequently, AI reported that al-Najjar was released on June 20.

e. Denial of Fair Public Trial.—The PA court system is based on legal codes that predate the 1967 Israeli occupation and Israeli military orders. A High Judicial Council (HJC) maintained authority over most court operations. State security courts were formally abolished in 2003. Military courts, established in 1995, have jurisdiction over police and security force personnel as well as crimes by civilians against security forces. The PA courts were inefficient, lacked staff and resources, and often did not ensure fair and expeditious trials. These problems predated PA

jurisdiction, and were aggravated by lack of PA attention thereafter. The PA executive and security services frequently failed to carry out court decisions and otherwise inhibited judicial independence.

The ongoing violence adversely affected the PA administration of justice. Operation Defensive Shield in 2002 damaged the Court of First Instance and Conciliation in Ramallah and the PA's main forensic lab. Many police stations and incarceration facilities were damaged or destroyed. Travel restrictions, curfews, and closures significantly impeded the administration of justice.

Israeli law provides for an independent judiciary, and the Government generally respected this in practice. Palestinians accused of security offenses usually were tried in military courts. Security offenses are comprehensively defined and may include charges as varied as rock throwing or membership in outlawed terrorist organizations, such as Hamas or the PFLP. Military prosecutors brought charges. Serious charges were tried before three-judge panels; lesser offenses were tried before one judge. The Israeli military courts rarely acquitted Palestinians of security offenses, but sentences in some cases were reduced on appeal.

Israeli military trials followed evidentiary rules that were the same as those in regular criminal cases. Convictions may not be based solely on confessions, although, in practice, some security prisoners were convicted on the basis of alleged coerced confessions of themselves and others. The prosecution must justify closing the proceedings to the public in security cases. The accused is entitled to counsel, and a judge may assign counsel. Charges are made available to the defendant and the public in Hebrew, and the court may order that the charges be translated into Arabic, if necessary. Defendants had the right to appeal through the Military High Court or to the Civilian High Court of Justice in certain instances. The court may hear secret evidence in security cases that is not available to the defendant or his attorney. However, a conviction may not be based solely on such evidence.

Trials sometimes were delayed for very extended periods, because Israeli security force witnesses did not appear, the defendant was not brought to court, files were lost, or attorneys were delayed by travel restrictions (*see* Section 2.d.). Palestinian legal advocates alleged that these delays were designed to pressure defendants to settle their cases.

On May 20, a Tel Aviv District Court convicted West Bank Fatah leader and Palestinian Legislative Council member, Marwan Barghuti, on three charges of murder and one charge of attempted murder involving terror attacks that resulted in the deaths of five Israelis. Barghuti was arrested in April 2002 and initially was barred from seeing an attorney; however, he was allowed to retain and dismiss legal counsel during the course of his trial. The trial began in September 2002 and proceeded sporadically for more than 2 years. Barghuti rejected the Israeli court's jurisdiction, did not mount a legal defense, and did not appeal the five consecutive life sentences he received.

In May 2003, the PA High Court of Justice ordered the release of Taysir Abu Meghasib and Mehdi Abu Seif from detention for lack of evidence on charges of collaborating with Israel. At year's end, it appeared that they had not been released.

On October 16, a PA civil court in the Gaza Strip sentenced a Palestinian to death by hanging after finding him guilty of collaborating with Israel; however, by year's end, there had been no execution. Another three Palestinians convicted of the same charges received prison terms.

On November 28, an Israeli military court delayed PLC member Husam Khader's trial until March 6, 2005. Khader was arrested in March 2003 for alleged involvement in Intifada-related violence, but his trial since has been delayed repeatedly.

Crowded facilities, poor arrangements for scheduling and holding attorney client consultations, and confessions prepared in Hebrew hindered legal defense efforts.

Israeli settlers were tried under Israeli law in the nearest Israeli district court. Civilian judges presided, and the standards of due process and admissibility of evidence were governed by the laws of Israel, not military orders. Settlers rarely were prosecuted for crimes against Palestinians and, in the rare instances in which they were convicted, regularly received lighter punishment than Palestinians convicted in Israeli courts (*see* Section 1.a.).

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The PA required the Attorney General to issue warrants for entry and searches of private property; however, Palestinian security services frequently ignored these requirements. Police searched homes without the consent of their owners. In some cases, police forcibly entered premises.

Under occupation orders, an officer of the rank of lieutenant colonel or above could authorize entry of private homes and institutions without a warrant, based upon military necessity. On some occasions IDF personnel beat occupants and de-

stroyed or looted property. Authorities stated that these were punishable violations of military regulations, and compensation was due.

Israeli security forces demolished and sealed the homes (owned or rented) of Palestinians suspected of terrorism or the relatives of such suspects, without judicial review (*see* Section 1.g.). During the year, according to B'tselem, Israeli forces demolished 181 housing units in the occupied territories (compared with 219 in 2003) as punishment for terror activity and deterrence against future attacks.

On February 26, the IDF blew up the apartment of 'Itaf Abu Sha'ira in the al-Aida refugee camp near Bethlehem. Abu Sha'ira said that an IDF officer on the scene told her that the demolition was punishment for her husband Hassan's June 2001 killing of an IDF soldier. The IDF gave Abu Sha'ira and her family 10 minutes to remove items from her apartment prior to its destruction; the explosion also damaged other apartments in the building.

On April 4, the IDF blew up the home of Fakhri 'Aarda from the Tulkarm refugee camp after one of his sons killed an Israeli and injured another in a northern West Bank settlement on April 3.

Israel demolished many homes between the Rafah refugee camp and the border with Egypt, claiming that the houses concealed tunnels used for weapons smuggling or provided cover for attacks against Israeli soldiers. Between May 17 and 24, the IDF undertook "Operation Rainbow" to secure the neighborhoods along the Philadelphi road that divides the Gaza Strip from Egypt and eliminate "terrorists and wanted operatives." UNWRA and U.N. Office for the Coordination of Humanitarian Affairs (OCHA), judged that this operation destroyed 298 buildings, leaving 3,794 individuals homeless. Since 2000, approximately 1,500 buildings in Rafah have been demolished by the IDF, making more than 15,000 Palestinians homeless.

The IDF destroyed numerous citrus, olive, and date groves, and irrigation systems, stating that Palestinians had been shooting from those areas. The IDF also cleared and took control of land held by private Palestinians for construction of the separation barrier. B'tselem estimated that at least 6,900 acres of land has been taken for construction of the separation barrier. According to OCHA, the separation barrier was approximately 123 miles long and was projected to be more than 372 miles long.

Human rights monitors reported that the IDF provided greater protection to Palestinian farmers than they did in the past. Still, Palestinians complained that the IDF measures gave insufficient time to complete the harvest, and that they were limited in their own ability to protect their property by curfews and travel restrictions.

On November 17, approximately 70 Israeli settlers from the West Bank settlement of Itamar attacked Palestinian olive harvesters; Israeli security forces attempted to prevent disruption of the harvest.

Between December 9 and 12, according to the daily Ha'aretz, Zufim settlers uprooted more than 217 olive and citrus trees at Jayyus.

Israeli authorities generally did not prosecute settlers for acts of violence against Palestinians, and settlers rarely served prison sentences if convicted of a crime against a Palestinian. However, in August 2003, Israel arrested nine settlers for plotting an attack on a Palestinian school in East Jerusalem. Ultimately, during 2003, two were sentenced to 15-year terms, and one was sentenced to 12 years' imprisonment. The remaining six were released from custody for lack of evidence.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—Palestinian members of Fatah, HAMAS, and PFLP attacked and killed civilians in Israel, Israeli settlers, foreign nationals, and soldiers. They used weapons designed to inflict casualties on noncombatants, such as suicide bombs, and fired area weapons such as rockets and mortars at their targets without regard for noncombatants. In addition, they often fired at Israeli security forces from civilian population areas, increasing the risk that Israeli return fire would harm noncombatants. The PA did not take sufficient steps to prevent terrorist attacks, enforce a ban on militant groups, or prevent such groups from seeking shelter in civilian areas. By year's end, some PA officials made statements questioning the utility of violence. During the presidential campaign, PA presidential candidate Abbas called the armed Intifada counterproductive to Palestinian interests.

According to the PA Ministry of Health, the Palestine Red Crescent Society, and B'tselem, at least 800 Palestinians were killed during the course of Israeli military and police operations during the year. The PA Ministry of Health estimated that approximately half of those killed were noncombatants. B'tselem reported a figure of 452 innocent Palestinians killed this year. The IDF stated that the majority of Palestinians killed were armed fighters or persons engaged in planning or carrying

out violence against Israeli civilian and military targets. According to the PRCS, IDF operations resulted in injuries to approximately 4,000 Palestinians.

The IDF conducted numerous military incursions into Palestinian population centers, in response to Palestinian mortar and antitank fire. These actions often resulted in civilian casualties. Israeli forces fired tank shells, heavy machine-gun rounds, and rockets from aircraft at targets in residential and business neighborhoods where Palestinian gunfire was believed to have originated. Palestinians often used civilian homes to fire upon Israeli forces and booby-trapped civilian homes and apartment buildings. In response to these actions, the IDF usually raided, and often leveled, these buildings.

During an IDF incursion into two refugee camps in the northern Gaza Strip on March 7, Israeli forces killed 10 Palestinian militants and 4 civilians, including 3 children, during fighting throughout the day.

On May 17, Israel launched "Operation Rainbow" in Rafah in the Gaza Strip. According to the IDF, the operation was designed to destroy tunnels used for smuggling weapons into the Gaza Strip from Egypt. Over 40 Palestinians were killed during the operation, including civilians. (*see* Section 1.f. regarding housing destroyed in this operation.) Human Rights Watch (HRW) also reported that the IDF actions destroyed over 50 percent of Rafah's roads and elements of its water, sewage, and electrical systems.

On May 18 in Rafah, two Palestinian children, 16-year-old Asma al-Mughayr and her 13-year-old brother, were shot in the head on the roof-terrace of their home while performing household chores. AI concluded that IDF snipers killed both; Israeli army officials suggested that they were killed by an explosive device set by Palestinians. At year's end, there was no information on any further official investigation.

On July 6, IDF forces killed Dr. Khaled Salah, a Palestinian engineering professor at al-Najah University, and his teen-age son during a raid on their apartment building. IDF soldiers were seeking Palestinian militants in the building and, in the exchange of gunfire, also killed Salah and his son.

On September 7, a girl sitting in a U.N.-flagged school was struck in the head by gunfire from an Israeli position in Gaza. At year's end, an IDF investigation was ongoing into the circumstances of the shooting.

On September 19 in Nablus, during an exchange of gunfire between the IDF and militants, an 11-year-old Palestinian girl was shot and killed while standing in the doorway of her house. Palestinians claimed the IDF killed the girl, but the IDF stated that a preliminary investigation found that no IDF gunfire had been directed at the girl.

On September 28, the IDF launched "Operation Days of Penitence" into the northern Gaza Strip in response to continued Qassam rocket fire into Israel that killed two Israeli children in the town of Sderot. The IDF attacked targets in Bayt Hanun and Jabaliyah refugee camp using tanks and helicopters during the 17-day operation. Human rights groups claimed that IDF security forces killed as many as 130 Palestinians and wounded over 430 during the operation, although the U.N. put the number of those killed at 107. According to B'tselem, among the Palestinians killed were approximately 50 civilians, including at least 26 Palestinians under the age of 18. The IDF estimated that 19 civilians were killed.

On October 5, IDF soldiers shot and killed Imam al-Hams, a 13-year-old Palestinian schoolgirl, as she approached an IDF outpost in the southern Gaza Strip. The girl approached the outpost carrying a bag that troops suspected contained explosives, but which later turned out to contain only schoolbooks. After the girl had been shot from a distance, the IDF company commander repeatedly fired his automatic weapon into her at close range. On November 22, after investigation including statements by soldiers under his command, an IDF military court indicted the company commander on two counts of illegal use of weapons, obstructing justice, unbecoming behavior, and improper use of authority. At year's end, the court martial remained ongoing.

On October 7, IDF tank fire killed two boys 12 and 15 years of age while they were standing near their school.

On October 8, a 10-year-old Palestinian girl was shot and killed by IDF gunfire in Bayt Hanun in the northern Gaza Strip as she stood on the street in front of her house.

On October 12, Israeli military forces shot and killed an 11-year-old, Ghadir Mokheimer, as she stood outside her school in Khan Yunis refugee camp in Gaza. The IDF claimed that they returned fire after coming under rocket attack from militants using the school as cover.

On October 4, the IDF severely damaged the Gaza City wastewater treatment plant resulting in $200,000 (872,000 NIS) worth of damage to the USAID-funded

parts of the plant. An investigation is being conducted into the incident; however, the IDF stated that the plant was not intentionally targeted. According to USAID, the total repair and replacement costs for damage during the year to USAID-funded projects are estimated at $450,000 (1.93 million NIS).

On November 5, Israeli media reported that an IDF tank round killed two Palestinian children, ages 8 and 10 years old, when tank fire hit their home in the al-Qarrara district of Khan Yunis.

On November 6, a 13-year-old Palestinian boy was shot and killed by IDF forces in Jenin. The IDF said the boy had thrown a firebomb at IDF soldiers.

On November 18, IDF tank fire killed three Egyptian policemen at the border near Rafah. Reportedly, the IDF believed the police were Palestinians attempting to plant explosives. Subsequently, the Government apologized for the killings.

IDF soldiers reportedly fired without warning on trespassers in or near restricted areas.

On September 28, Israeli forces killed a mentally ill Palestinian man when he climbed a fence near an army outpost in Jenin. On another occasion in the Gaza Strip, Palestinian youths were killed when they approached the security fence. Soldiers said the boys were providing intelligence to militants; Palestinians maintained that the boys were hunting birds.

During the year, according to Palestinian security and media reports, the IDF targeted for killing at least 25 Palestinians suspected of involvement in terrorism. IDF forces killed at least 18 bystanders—4 of whom were civilians and many of the remaining were affiliated with terrorist organizations and injured a number of others.

On March 22, rockets from Israeli helicopters killed Sheikh Ahmad Yassin, the founder of the Islamic Resistance Movement (HAMAS), as he was leaving a mosque in the Gaza Strip. Two bodyguards and one of Yassin's sons-in-law also died in the attack, along with eight worshippers from the mosque. Fifteen bystanders were injured.

On April 17, rockets from Israeli helicopters killed 'Abd al-Azziz al-Rantisi, a cofounder of Hamas and Yassin's replacement as its leader. Rantisi's bodyguards were killed during the attack. Eighteen other persons were wounded.

On October 21, Israeli aircraft fired two missiles at a car killing Adnan al-Ghoul, a senior Hamas commander, and his assistant. Eight bystanders also were slightly wounded.

Israeli security personnel operating checkpoints killed a number of Palestinians.

There were no developments in the investigation into the circumstances surrounding the July 2003 death of 3-year-old Palestinian Mahmud Jawadat Sharif Kabaha, who was shot while sitting in his parents' car at the Barta'a checkpoint west of Jenin (*see* Sections 1.a. and 1.c.).

During the year, Israeli forces delayed the movement of, and occasionally fired upon, medical personnel and ambulances. Israel has presented video evidence of armed Palestinians running from a building and entering an ambulance and of an ambulance crew that picked up an injured Palestinian, retrieved his weapon, and put it inside the ambulance before driving away. The U.N. maintained that the ambulance crews acted under duress. The Israeli Government acknowledged that an accusation that an ambulance crew had transported a Qassam rocket was in error.

On January 11, according to PRCS allegations, Israeli soldiers manning a checkpoint in the West Bank beat an ambulance driver and medic as they transferred patients from Nablus to Ramallah hospital.

On June 13, according to PRCS, an ambulance attempted to evacuate protesters injured during an antiseparation barrier demonstration. Israeli security personnel allegedly fired gunshots and tear gas at the ambulance.

The IDF abuse of Palestinians or their vehicles at checkpoints continued, but at a more reduced level than during 2002–03. Qahira Muhsen, age 41, from the village of al-Funduq, alleged that four Israeli Border Police in the vicinity of the Jajuliya checkpoint punched, kicked, and cursed him.

In April, a young Palestinian woman from Bethlehem told Machsom Watch, an Israeli women's rights organization, that she witnessed IDF soldiers at the "Container" checkpoint, southeast of Jerusalem, hit her father with truncheons as he sat in his car as well as abusing other drivers.

Palestinians frequently threw stones, Molotov cocktails, and on occasion fired live ammunition at Israeli security forces. Israeli security forces on various occasions responded with tear gas, rubber bullets, and live fire, including tank fire.

On May 19, at least 10 Palestinians were killed and more than 50 wounded when tank shells exploded near demonstrators in the Rafah refugee camp. IDF officials claimed that the tank had fired warning shots, and denied firing into the crowd. The IDF claimed that gunmen were in the crowd. This claim was disputed by Palestinians, and there was no evidence to substantiate the IDF charge. The IDF re-

leased a statement that expressed deep sorrow and regret over the loss of civilian lives.

On November 15, according to witnesses, Israeli border police entered Saint Vincent's Monastery in Bethany and seriously wounded an unarmed 15-year-old boy when his group, holding a mourning demonstration for Arafat, did not disperse as police requested.

Israeli forces used Palestinians as "human shields" in violation of applicable Israeli law. In 2002, the Israeli High Court of Justice granted an injunction against the use of Palestinians as "shields" for Israeli forces. The IDF admitted violations of existing procedures and reiterated that IDF forces "are absolutely forbidden to use civilians of any kind as a means of 'living shield' against gunfire or attack by the Palestinian side, or as 'hostages.'" However, IDF soldiers were permitted to seek consensual assistance of civilians in operations. Human rights groups asserted that Palestinians who consented often did so out of fear even if they were not coerced. Such Palestinians face the risk of being branded as collaborators.

On January 12, IDF soldiers used Ahamd Assaf to enter and search homes in the Tulkarm refugee camp and fired gunshots into the homes as Assaf searched them. Another Tulkarm refugee camp resident, Ahmad Ganem, claimed that Israeli soldiers made him search homes in the camp.

In April, Adalah, an Israeli-Arab human rights organization, asked the Israeli High Court to issue an injunction against the IDF seeking the assistance of Palestinians, without exception. On September 5, the President of the Court urged the IDF to forego use of the procedure, citing the Fourth Geneva Convention. The High Court announced that it would give its decision at a later date.

According to B'tselem, there have been 90 Military Police investigations since September 2000 relating to Palestinians killed and injured during the Intifada, resulting in the filing of 29 indictments. B'tselem reported that one soldier was convicted for causing the death of a Palestinian.

B'tselem and the Association for Civil Rights in Israel (ACRI) petitioned the High Court in September 2003 to open military investigations into all cases where IDF soldiers killed Palestinians who had not engaged in hostilities. At year's end, the High Court had not ruled on the petition.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The PA restricted freedom of speech and freedom of the press. During the year, the PA limited free expression, particularly regarding human rights and alleged security issues. PA security services banned publications or broadcasts and periodically harassed or detained members of the media. Palestinian commentators and human rights groups stated that, as a result, journalists practiced self-censorship. In addition, armed extremist groups attacked journalists.

There were three Palestinian dailies and several Palestinian weekly newspapers. There also were several monthly magazines and three tabloids. The PA operated two television stations and one radio station. There were approximately 30 independently owned television stations and approximately 9 radio stations. According to an October study published by the Palestinian Central Bureau of Statistics, approximately 33 percent of Palestinians in the occupied territories had access to the Internet.

The Israeli occupation authorities limited speech. In East Jerusalem, the display of Palestinian political symbols, such as flags, national colors, and graffiti, was prohibited and punishable by fines or imprisonment, as were public expressions of anti-Israeli sentiment and of support for Islamic extremist groups. Israeli authorities censored press coverage of the Intifada and reviewed Arabic publications for material related to public order and security issues. Closures and curfews limited the ability of Palestinian journalists to do their jobs.

On January 8, journalist Saifeddin Shahin was beaten by five armed men after his car was stopped. The attackers claimed to be from the Fatah movement and threatened reprisals if he continued to write about Fatah. PA police arrested one of the attackers; however, at year's end, there had been no further legal action.

On March 22, Mohammad Abu Halima, a correspondent for the al-Najah University-affiliated radio station, was killed by IDF gunfire as he reported on clashes in the Balata refugee camp in Nablus, according to the Committee to Protect Journalists. An IDF spokesperson said that Abu Halima had opened fire. At year's end, there was no report of any Israeli investigation of the circumstances of the killing.

During the year, Israeli gunfire killed a journalist, and at least 11 other journalists sustained injuries during clashes between IDF soldiers and Palestinians in the occupied territories. Israeli soldiers beat journalists on several occasions, detained others, and confiscated their press cards.

On September 27, Riad Ali, a Cable News Network journalist, was abducted by a group of armed Palestinian men. Ali, an Israeli citizen from the Druze community, was released 36 hours after his abduction. There were no claims of responsibility for the kidnapping.

In March 2003, PA police in Gaza City shut the Palestinian newspaper, al-Risalah, a weekly publication of the Islamic National Salvation Party (Khalas). The paper returned to publication during the year.

On April 2, Ammar Awad was covering clashes between Israeli police and Palestinian demonstrators in Jerusalem. The policemen destroyed the journalist's cameras.

On April 24, an IDF soldier shot journalist Ali Samoudi in the nose as he was covering an Israeli army incursion into Jenin. Samoudi, who was wearing a "press" sign, alleged that the soldier intentionally fired at him.

James Miller was killed by the IDF in May 2003 while filming a documentary in Gaza City. After repeated requests from his family and from foreign diplomatic representatives, the IDF Military Attorney General (MAG) ordered an investigation into the incident. At year's end, the NGO B'tselem had no information regarding the status of the investigation.

In April 2003, an IDF soldier killed Nazeeh Darwaza while he was filming a wounded child during an IDF incursion in Nablus. On June 16, B'tselem was informed that the MAG was investigating the case. At year's end, there was no further information.

On December 27, Israeli police detained PA presidential candidate Mustafa Barghuti for several hours after he attempted to campaign in Jerusalem. Barghuti lacked a permit to enter Jerusalem (*see* Sections 2.d. and 3).

The PA had authority over all levels of education. During the year, the PA did not interfere with education, but academic institutions were adversely affected by the violence.

On November 27, Yaser al-Madhoun, a Palestinian professor at al-Azhar University in Gaza City, was killed when a remote control bomb exploded in his office; another Palestinian was injured. At year's end, PA police continued the investigation.

Israeli closures, curfews and the separation barrier restricted access to Palestinian academic institutions. In some instances, Israeli authorities shut universities entirely. Israeli shelling and gunfire during military operations damaged a number of schools and, in some cases, killed schoolchildren (*see* Section 1.g.).

In 2003, Israeli authorities closed the Hebron University and the Hebron Polytechnic School, which served 5,000 students. The schools reopened during the year.

According to UNICEF, years of conflict damaged 300 schools and, in 2003, 580 schools were periodically forced to close.

The PA Ministry of Education claimed that, since 2001, the IDF had converted three schools in Hebron into military barracks.

Physical damage to schools and universities was calculated at more than $10 million (43 million NIS).

b. Freedom of Peaceful Assembly and Association.—The PA imposed some formal limits on freedom of assembly; however, while it required permits for rallies, demonstrations, and large cultural events, these permits rarely were denied. In Gaza, police approval was required for political meetings at specific meeting halls and for buses to transport passengers to attend political meetings. The PA prohibited calls for violence, displays of arms, and racist slogans, although these provisions were rarely enforced. The PA placed some limits on freedom of association; however, charitable, community, professional, and self-help organizations were able to operate.

Israeli military orders banned public gatherings of 10 or more persons without a permit; however, Palestinians were able to ignore this order without punishment.

Israeli security forces used force against Palestinians involved in demonstrations (*see* Section 1.c.). The Israeli and Palestinian authorities disputed whether Palestinians attacked security forces during such demonstrations. In 2001, the IDF authorized the use of gunfire in some rock-throwing situations.

On February 26, Israeli security forces used tear gas, rubber bullets, and live ammunition, reportedly after demonstrators began throwing stones at Israeli forces during an antiseparation barrier demonstration Biddu village. Two persons were killed and approximately 70 persons sustained injuries.

Orient House, the preeminent Palestinian political institution in Jerusalem, was shut by Israeli forces in 2001 and remained closed throughout the year. In 2002–03, Israel closed the Arab Graduates Club, frequented by Fatah activists, the Multi-Sectoral Review Project, the Land Research Center, the East Jerusalem offices of the Federation of Palestinian Chambers of Commerce, and the Jerusalem Cultural Association and the Union of Sports Clubs. Israeli authorities claimed that these in-

stitutions were operating under PA supervision in violation of signed agreements. At year's end, these organizations remained closed.

c. Freedom of Religion.—The PA has no law that specifically protects religious freedom, but religious freedom was respected in practice. Islam is the official religion of the PA. Religion must be declared on identification papers, and personal status legal matters must be handled in ecclesiastical courts. The PA's Ministry of Waqf and Religious Affairs paid for the construction and maintenance of mosques and the salaries of imams. Christian clergymen and charitable organizations received limited financial support. The PA did not provide financial support to any Jewish institutions or holy sites in the occupied territories; these areas were generally under Israeli control. During the year, there were no reports of violence against or vandalism of Jewish institutions in the occupied territories.

The PA required that religion be taught in PA schools. The PA provided separate religious instruction for Muslim and Christian students.

Media frequently published and broadcast material about the occupation that included anti-Semitic content. The rhetoric used by Palestinian terrorist groups included expressions of anti-Semitism. Muslim religious leaders and the PA television station engaged in expressions of anti-Semitism. On the positive side, in a December 3 sermon broadcast on PA Television, preacher Muhammad Jammal Abu Hunud called for the development of a modern Islamic discourse, to recognize the "other," to treat him with tolerance, and to avoid extremism and violence.

Israeli authorities generally respected religious freedom and permitted all faiths to operate schools and institutions. However, internal and external closures prevented tens of thousands of Palestinians from reaching their places of worship in Jerusalem and the West Bank, including during religious holidays. Citing security reasons, Israel prevented most male Muslim worshippers under the age of 45 from attending Friday prayers inside the Haram al-Sharif/Temple Mount, the third holiest site in Islam and the holiest site in Judaism. Most West Bank residents and virtually all Gaza residents were restricted from entering Jerusalem during Ramadan.

In August 2003, Israeli police began escorting tourists to the Haram al-Sharif/Temple Mount to reassert the right of non-Muslims to visit the shrine.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Occupied Territories, Foreign Travel, Emigration, and Repatriation.—The PA generally did not restrict freedom of movement. The Israeli occupation authorities, citing military necessity, often tightly restricted the movement of Palestinians in response to changing security conditions.

During periods of unrest (in the aftermath of terrorist attacks or during military exercises), travel between some or all towns within the territories was prohibited. Such "internal closures" were supplemented, during periods of potential unrest and during major Israeli and Muslim holidays, by "comprehensive, external closures," which precluded Palestinians from leaving the territories. During the year, there were no extended blanket closures, although several Gaza crossing points were simultaneously closed for extended periods, completely closing off the Gaza Strip. Since 1993, Palestinians were able to enter East Jerusalem only with a travel permit issued by Israeli authorities. The Israeli authorities also imposed curfews in some areas, which confined Palestinians to their homes for all but a few hours per week. During the year, there were fewer curfews than in 2003.

The PA issued passports for Palestinian residents of the West Bank and Gaza. Because there are no commercial flights from the territories, travelers must depart via land crossings into Israel, Jordan or Egypt. Even prior to the Intifada, it was difficult for Palestinians to obtain permits to visit Israel. While transit passes for travelers using Ben Gurion airport exist, they are not widely available. Vehicles originating in the territories are often not permitted entry into Israel or Jerusalem. Palestinians were prohibited from using the Sheikh Hussein or Arava crossings. As a result, most Palestinians traveling abroad could exit and enter only via the Allenby Bridge or Rafah crossing points.

Between April 16 and September 18, the IDF prevented Palestinian males between the ages of 16 and 35 from exiting Gaza through the Rafah terminal. On July 18 the terminal was closed completely, leaving approximately 2,500 Palestinians on the Egyptian side for more than 2 weeks. The IDF was searching for a tunnel in the vicinity, but failed to locate it. On December 12, a terrorist attack extensively damaged the terminal and killed five Israeli soldiers. At year's end, the terminal remained closed.

Palestinians with Jerusalem identification cards, issued by the Israeli Government, needed special documents to travel abroad. Upon request, the Jordanian Gov-

ernment also issued travel documents to Palestinians in the West Bank and East Jerusalem. Palestinians who wish to travel to Jordan must leave their Israeli identification documents with Israeli authorities at the Allenby Bridge. Bridge-crossing permits to Jordan were available at post offices without a screening process.

The external and internal closures contributed to increased unemployment and poverty in the occupied territories. Approximately 146,000 West Bank and Gaza workers, representing roughly 25 percent of the Palestinian work force, depended on day jobs in Israel, Israeli settlements, and Jerusalem. The closures impeded Palestinians from reaching jobs or markets in the occupied territories and disrupted internal and external trade. The unemployment rate was estimated at 31 percent at year's end. The economic dependency ratio (total population divided by employed persons) increased during the year. The percentage of employees whose monthly wages fell below the poverty line increased from 43.5 percent in the third quarter 2000 to 56.8 percent at year's end.

For the approximately 200,000 Palestinians who lived in rural villages without the full range of urban services—such as medical care, education, or potable water—the closures were a particular hardship.

Apart from closures, delays at checkpoints and roadblocks affected all aspects of life, particularly emergency health care. According to OCHA, in the West Bank there were 61 fully manned checkpoints, 6 occasionally manned checkpoints, 374 earthen mounds blocking roads, 102 cement roadblocks, 48 road gates, and 51 gates along the separation barrier. The Israeli authorities' figures show 47 checkpoints and 130 roadblocks in the West Bank as of December. (OCHA and Israeli Government statistics are based on different methodology.) Although ambulance response times improved during the year as the Israeli authorities provided additional permits, many problems remained, including difficulties for ambulances attempting to reach villages in remote areas of the West Bank.

In January, villagers from Jayyus were unable to exit the village to tend fields or graze sheep.

On March 10, the IDF delayed a car containing an ill 10-month-old for 3 hours at a roadblock near Khan Yunis in the Gaza Strip. The baby died.

On April 30, Mohammad Dagaghmah, a shepherd from Hebron who claimed to have a valid permit, was not permitted to pass a checkpoint for 2 days, although his sheep were allowed to pass.

According to B'tselem, on June 15, taxi driver Fuad al-Jaiyusi reported that IDF soldiers refused to let him and four other drivers cross the Jit checkpoint, contending that al-Jaiyusi did not have the proper permit, and impounded his vehicle for 4 days.

On July 10, Israeli soldiers delayed at the Allenby Bridge gates for approximately 2 hours a PRCS ambulance carrying a cancer patient in critical condition to a local Palestinian hospital. During a search of the ambulance by Israeli security personnel, the patient's condition deteriorated, but PRCS medics were not permitted to intervene. The patient was dead on arrival.

On July 20, Abdel Latif Emlaitat died of a heart attack at a roadblock near the village of Bayt Furik. According to his family, Emlaitat suffered severe chest pain and was trying to reach the hospital in Nablus. Israeli soldiers stopped the car when it attempted to leave the village for approximately 2 hours.

On December 23, at the Erez Crossing into Israel from Gaza city, only 5 of 25 medical cases that had permits to enter were allowed to cross into Israel. Those unable to enter were directed to leave and reapply to enter on another day.

The Israeli Government continued construction of a security barrier along parts of the Green Line (the 1949 Armistice line) and in the West Bank. The PA alleged that the routing of the barrier resulted in the taking of land, isolating residents from hospitals, schools, social services, and agricultural property. Israel asserts that it has sought to build the barrier on public lands where possible, and where private land was used, provided opportunities for compensation. Palestinians filed a number of cases with the Israeli Supreme Court challenging the routing of the barrier. In June, the Court ruled that a section of the barrier must be rerouted; determining that the injury caused by the routing of the barrier did not stand in proper proportion to the security benefits; various portions of the barrier route were rerouted. On July 9, the International Court of Justice issued an advisory opinion, concluding that "The construction of the wall built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem and its associated regime, are contrary to international law."

At the end of the year, the barrier divided approximately 157,800 acres with a population of 93,200 from the rest of the West Bank. According to OCHA, Palestinians have been impeded from reaching their land to harvest crops and graze animals. Residents' access to schools, medical care and other services was also impeded.

In October 2003, Israeli military orders required Palestinians residing in "seam zones" between the separation barrier and the Green Line (approximately 5,000 of the 93,200 mentioned above) to obtain residency permits to remain in these areas.

Israel offered East Jerusalem residents citizenship following Israel's occupation of Jerusalem in 1967. Most have chosen not to accept Israeli citizenship, but instead have sought a residence permit or Jerusalem identification card. Under the 1952 Law of Permanent Residency, such residents risk loss of status if their ties with Jerusalem lapse, although human rights groups report that such revocations have been infrequent. On July 8, an Israeli ministerial committee reportedly adopted an unpublished resolution calling for the application of the 1950 Absentee Property Law to East Jerusalem; however, the resolution does not appear to have been acted upon or implemented by year's end.

Residency restrictions affected family reunification. Palestinians who were abroad during the 1967 War, or who subsequently lost their residence permits, were not permitted to reside permanently with their families in the occupied territories. Foreign-born spouses and children of Palestinian residents experienced difficulty in obtaining residency. Palestinian spouses of Jerusalem residents must obtain a permit to reside there. Palestinians reported delays of several years or more before spouses were granted residency permits. The Government of Israel occasionally issued limited-duration permits, but renewing the permits could take up to 8 months, which resulted in many Palestinians falling out of status. Palestinians also reported extensive delays in registering newborn children with Israeli authorities.

Neither the Israeli Government nor the PA used forced exile or forcibly deported anyone from the occupied territories during the year.

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

Following the death of PA Chairman Yasir Arafat on November 11, an election for PA president was scheduled for January 9, 2005. Seven candidates competed in a vigorous election campaign throughout the occupied territories. The Government of Israel and the PA agreed to follow the 1996 parameters for voting in East Jerusalem.

On December 23, the PA held municipal elections in 26 West Bank localities for the first time since 1976. Further elections were scheduled for Gaza on January 27, 2005, and for other municipalities in the spring and summer of 2005. Domestic and international election observers found the December 23 elections met democratic standards, while noting several technical and procedural problems.

The 88-member Palestinian Legislative Council (PLC) and Chairman of the Executive Authority were elected in 1996 in a process that international observers concluded generally met democratic standards, despite some irregularities.

On September 27, the Palestinian cabinet adopted a 1-year reform action plan, approved by the council, that was designed to create a more equal balance of power between the executive and the council and more accountability and transparency in governance.

In September and October, the independent Central Elections Commission conducted voter registration. The registration process went smoothly except in East Jerusalem, where Israeli police closed registration centers, and in some parts of Gaza, where IDF operations disrupted the process. The register was used in the December 23 municipal elections and will be used in elections scheduled for 2005. Following the closure of registration centers in East Jerusalem, very few Palestinian residents of the city attempted to register elsewhere, though they were eligible to do so.

While Palestinians with residency permits were eligible to vote in Jerusalem municipal elections, most did not recognize the jurisdiction of the Israeli municipality of Jerusalem and did not participate. There were no Palestinian residents of Jerusalem on the city council.

There was a widespread public perception of corruption within the PA, notably within the security forces. There were calls for reform from many social and political elements, especially during the summer.

The law requires official PA institutions to "facilitate" the acquisition of requested documents or information to any Palestinian; however, the law does not require any PA agency to provide such information. Many Palestinians cited the law when seeking to acquire information from the PA; however, no cases have come before the PA courts. NGOs were seeking to amend the law to make it mandatory to provide information to Palestinians.

During the year, there were 5 women on the 88-member Council, and 2 women served in Ministerial-level positions.

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

Local Palestinian human rights groups and several international organizations monitored the PA's human rights practices. By the end of 2003, the PA had issued registration certificates for 150 of the approximately 350 new and existing NGOs that submitted applications under the 2000 NGO law. During the year, an additional 74 such certificates were granted; others still were being processed at year's end.

PA officials usually met with NGO representatives. Public criticism from these groups has been somewhat less forthcoming since the outbreak of the Intifada, with several NGOs voluntarily deciding to defer criticism of the PA's human rights performance. Observers noted that documentation of abuses was very limited.

On March 2, Khalil al-Zaban, a journalist and advisor to PA Chairman Arafat on human rights and the media, was shot and killed in Gaza City. Al-Zaban headed the PA's government-appointed NGO Council and published its monthly newsletter. Al-Zaban was noted both for open criticism of Islamic militancy and aggressive attacks on those critical of the PA, particularly on human rights. At year's end, neither the perpetrators nor their motives had been identified.

Some PA security organizations, including the General Intelligence Service in the West Bank and the police, appointed officials to act as liaisons with human rights groups. These officers met with human rights organizations and members of the diplomatic community to discuss human rights cases.

The ICRC and human rights groups, such as the Palestinian Independent Commission for Citizens' Rights and the Mandela Institute, regularly visited PA prisons and detention centers. During the year, some groups reported that they occasionally encountered delays in obtaining access to detainees in Palestinian prisons. PA officials reportedly were less responsive to queries regarding the PA's policies toward and treatment of collaborators than to queries on other detainees (*see* Sections 1.c. and 1.d.).

Israeli, Palestinian, and international humanitarian and human rights NGOs monitored the Israeli Government's practices in the occupied territories. The Israeli Government permitted human rights groups to publish and hold press conferences, and provided the ICRC and other groups with access to detainees (*see* Section 1.c.). Some of these organizations were critical of the Israeli Government's practices and cooperation. In many cases, human rights groups refused to apply to Israeli authorities for special travel permits in order to protest Israel's regulation of their activities. During the year, human rights groups reported that Israeli closures impeded and, at times, completely prevented their work.

On January 13, Thomas Hurndall, 22, a British activist with the International Solidarity Movement, died as a result of injuries sustained in April 2003 when an IDF soldier shot him as he attempted to move Palestinian children to safety during clashes in Rafah. At year's end, the court-martial of the IDF soldier charged with manslaughter was still pending.

In May 2003, Israel began requiring foreigners entering the Gaza Strip to sign a waiver providing that "the Government of the State of Israel and its organs cannot be held responsible for death, injury and/or damage/loss of property which may be incurred as a result of military activity."

In May 2003, then-Israeli Minister of Foreign Affairs Silvan Shalom said, "Most human rights offices in the West Bank and Gaza Strip provide shelter for Palestinian terrorists."

In September, a settler confronted two members of the Temporary International Presence in Hebron (TIPH), an NGO that monitored relations between Israeli and Palestinian security forces, Palestinian civilians, and settlers in the city, and attempted to run over one of the TIPH staff. IDF soldiers refused to intervene, allegedly told the TIPH members to leave, and blamed them for the incident.

On September 29, unidentified assailants suspected of belonging to the Maon settlement in the South Hebron Hills attacked and robbed two U.S. citizen members of the Christian Peacemakers Teams (CPT) as they escorted Palestinian children to school. One sustained internal injuries, including a punctured lung, and the other a broken arm. Settler officials denied any knowledge of the attack. At year's end, the assailants had not been apprehended.

On October 9, members of the CPT, AI, and an Italian NGO ("Operation Dove") were escorting Palestinian children from the village of Tuwani to a school in the village of Tabban southeast of Hebron. As they were walking by the settlement of Maon, settlers wearing masks and shouting obscenities in Hebrew attacked the escorts with baseball bats, seriously injuring an Italian volunteer. At year's end, the assailants had not been apprehended.

The U.N. Relief and Works Agency (UNRWA) and other groups reported continued delays in transporting goods to Palestinian refugees in the occupied territories. During Operation Days of Penitence in September and October, the IDF restricted entrance into the Gaza Strip, preventing humanitarian agencies such as UNRWA from delivering food and providing assistance.

In October, UNRWA claimed that 24 of its staffers were detained by the IDF and that it was not notified. An Israeli official stated the number detained was not 24, but said that other UNRWA staff members were under indictment.

Physicians for Human Rights, which offered weekly "mobile clinics" in Palestinian villages, has been denied access to Gaza for 3 years and has only limited access to the West Bank.

On March 16, 2003, an Israeli bulldozer clearing land in Rafah in the Gaza Strip crushed and killed Rachel Corrie, 23, a U.S. citizen peace activist. Corrie was standing in front of the bulldozer and was wearing a reflective vest. Eyewitness demonstrators stated that they believe the driver knew Corrie was in front of the bulldozer as he proceeded forward. IDF investigations concluded that the operator was not negligent. U.S. officials who have seen the IDF report found inconsistencies among the statements of the people involved in the accident and other witnesses. The Corrie family believes that the investigation was not thorough, credible, and transparent and continued to pursue the case. In conjunction with the report of the IDF Judge Advocate General, the IDF implemented two remedial procedures for improved safety: The presence of more senior officers to oversee such operations and the designation of closed military zones with orders forbidding the presence of civilians in areas when IDF military operations are concluded.

On April 7, 2003, gunfire from an undetermined source struck 24-year-old U.S. citizen Brian Avery in Jenin. The IDF denied responsibility for the incident. Avery, an activist with the International Solidarity Movement, was walking outside during curfew in the city when an IDF armored personnel carrier approached him. Avery was shot in the face and required considerable surgery and extended hospitalization. In December, a lawyer petitioned the Supreme Court to require Israel military authorities to investigate his shooting. According to B'tselem, the IDF had reportedly conducted an internal investigation and concluded that it was impossible to determine whether Avery was hit by IDF or Palestinian gunfire. At year's end, the Israeli High Court had not delivered its decision in the case.

On December 26, 2003, Israeli security forces fired at demonstrators attempting to penetrate the separation barrier built near the town of Qalqilya. The gunfire wounded a 25-year-old U.S. citizen and seriously wounded Israeli citizen Gil Na'amati in both legs. The IDF internal inquiry concluded that the soldiers involved had not violated the open-fire regulations. On November 27, the Military Attorney General (MAG) decided that no criminal charges would be brought. However, the MAG recommended a reprimand for the regional brigade commander and further recommended that the commander of the Engineers Corps unit that was involved, his second in command, and two other soldiers be brought to a disciplinary hearing.

At year's end, the Government of Israel continued to withhold information regarding the documents and property taken during the 2001 seizure of Orient House (*see* Section 2.b.).

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Women.—PA law does not explicitly prohibit domestic violence, but assault and battery are crimes. There were reports indicating that Palestinian domestic violence increased since 2000.

So-called honor crimes occurred infrequently, according to human rights groups. Public discussion of the issue gained greater attention due to a significant effort by Palestinian women's groups. The crimes almost exclusively involved alleged sexual interactions of female family members with men who were not their husbands. Women's shelters were not accepted culturally. There was no reliable data on the incidence of violence against women.

Rape is illegal, but spousal rape is not.

Palestinian women endured social prejudice and repression. Some girls, especially in rural areas, did not finish mandatory schooling because prospective husbands did not approve. Education and cultural restrictions occasionally prevented women from attending college. Muslim and Christian women who married outside of their faith often were disowned and sometimes harassed. Local officials sometimes advised such women to leave their communities to protect themselves.

Before 2000, a growing number of women worked outside the home, where they often encountered discrimination and, occasionally, sexual harassment. There were no special laws on women's rights in the workplace. Women were underrepresented

in most aspects of professional life, although a small group of women were prominent in politics, medicine, law, teaching, and NGOs.

For Muslims, personal status law is derived from Shari'a (Islamic law). Ecclesiastical courts rule on personal status issues for Christians. Shari'a pertaining to women is part of the Jordanian Status Law of 1976, which includes inheritance and marriage laws. Women in most cases are not entitled to inheritance. Men may take more than one wife, although few did so. Women may make "stipulations" in the marriage contract to protect them in the event of divorce and on questions of child custody; however, only an estimated 1 percent of women took advantage of this provision. Ecclesiastical courts also often favored men over women in divorce and child custody cases.

Children.—The PA provides for compulsory education through the ninth grade. However, girls who married before the ninth grade left at the behest of husbands and, in rural areas and refugee camps, boys left school to help support their families.

Internal closures, checkpoints, and the separation barrier significantly impeded the ability of both students and teachers to reach educational facilities (*see* Sections 2.a. and 2.d.).

In areas under curfew, all classes were cancelled. UNRWA reported that more than 35,000 teacher workdays were lost in the 2002–03 academic year. Enrollment of students from Gaza at Birzeit University in the West Bank declined from 370 in 2000 to 39 at year's end.

Education and health care professionals judged that the violence produced lack of focus, nightmares, incontinence, and other behavioral problems. UNRWA reported that elementary school exam pass rates in Arabic, mathematics, and science declined dramatically between 2000–01 and 2003–04.

OCHA reported that during the past 3 years, Palestinian universities lost approximately $4.85 million (20.8 million NIS) worth of infrastructure. During the year, university dropout rates increased by 7 percent, in part, because families were unable to pay the fees.

The PA Ministry of Health provided for children's immunizations. The PA insurance program provided basic medical care for children, for a small monthly fee. The latest available figures showed a slight improvement in nutrition levels from 2003. In 2003, 3.4 percent of Palestinian children suffered from acute malnutrition and 10.7 percent suffered from chronic malnutrition. The prevalence of anemia varied between the West Bank (17.4 percent) and the Gaza Strip (31.2 percent).

Child abuse was not a widespread problem. The law does not explicitly prohibit child abuse, but does sanction parents who failed to protect children from abuse. PA courts may protect children in "difficult situations," including cases of neglect or abuse. The Ministry of Social Affairs may ask a court to intervene to place a child in an official protective institution or with an alternate family.

The law provides that no one under 14 can work. Those between 15 and 18 can be employed under limited conditions (*see* Section 6.d.). There was no juvenile court system, but certain judges specialized in juvenile cases.

Palestinians in East Jerusalem received municipal services inferior to those available in other parts of Jerusalem. In 2001, the Israeli High Court ordered the construction of new infant care clinics in East Jerusalem. The Association for Civil Rights in Israel stated that six centers now existed in East Jerusalem and the surrounding areas and that there was sufficient coverage for the local East Jerusalem population. East Jerusalem schools remained under-funded and overcrowded, and many students were denied enrollment due to lack of space. In 2001, the Israeli High Court ordered the municipality to build 245 new classrooms within the next 4 years, but, at year's end, only 2 new classrooms were finished and 28 were under construction.

International and domestic NGOs, including UNICEF, Save the Children, and Defense for Children International, promoted educational, medical, and cultural services for children, and other groups specialized in the needs of children with disabilities.

Palestinian terrorist groups used minors to conduct attacks or as human shields. On January 11, a 17-year-old high school student from Nablus blew himself up near an army post at Jinsafut; no IDF solders were hurt. On November 1, a 16-year-old Palestinian bomber blew himself up in a Tel Aviv marketplace, killing three Israeli civilians.

Trafficking in Persons.—Palestinian law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the occupied territories.

Persons With Disabilities.—Accessibility to public facilities was not mandated in the occupied territories. Palestinians with disabilities were discriminated against in most spheres, including education, employment, transportation, and access to public facilities. There were approximately 130,000 Palestinians with disabilities prior to the outbreak of the current Intifada. The Health, Development, Information, and Policy Institute estimated that one-tenth of the approximately 28,000 Palestinians injured in the Intifada will have permanent disabilities.

Some institutions cared for persons with disabilities; however, their efforts consistently were underfunded.

Care for Palestinians with physical and mental disabilities remained a problem. Cultural stigmas coupled with inadequate funding produced poor quality care. The PA depended on NGOs to care for physical disabilities, and offered substandard care for mental disabilities. In February, the Ministry of Health, with input from the World Health Organization, released a national strategy for mental health services that called for increased efforts to care for mental health patients and to reintegrate them into the community.

Other Societal Abuses and Discrimination.—There were no laws that discriminated against homosexuals, and there were no reports of specific incidents of abuse because of sexual orientation. However, cultural traditions and religious publications reject homosexuality, and Palestinians alleged that the public and PA security officers subjected them to harassment, abuse, and sometimes arrest because of their sexual orientation.

Section 6. Worker Rights

a. The Right of Association.—Labor Law 7 went into effect in 2001, but calls for 48 bylaws. Nine have been approved by the Ministers Council and published; 9 were approved but have not yet been published; and 30 remain incomplete. Workers may establish unions without government authorization. There were 19 trade unions registered with the Ministry of Labor.

The International Labor Organization (ILO) has paid to disseminate an explanation of labor laws prepared by the Department of Law at Birzeit University.

Workers in Jerusalem are free to establish unions, but may not join West Bank federations; however, this restriction was not enforced. Workers, holding Jerusalem identity cards, may belong simultaneously to West Bank unions and the Israeli Histadrut Labor Federation.

Palestinians who worked in Israel or Jerusalem prior to 2000 were partial members of Histadrut and had 1 percent of their wages withheld. Partial membership entitled them to limited benefits, including compensation for on-the-job injuries, maternity leave, and employer bankruptcy. Histadrut and West Bank union officials negotiated an agreement to transfer half of this fee to the Palestinian General Federation of Trade Unions (PGFTU), which claimed it was owed $6.5 million (28 million NIS).

Article 66 of the labor law provides for the right to strike. Prospective strikers must send a written warning 2 weeks in advance to the other party and the Ministry of Labor notifying them of the basis for the strike. (For strikes affecting public utilities, the period is 4 weeks.) In practice, strikers had little protection from retribution. Unions that seek to strike must accept arbitration by the Ministry of Labor and are subject to disciplinary action if they do not accept the result.

The PGFTU participated in some programs of the International Confederation of Free Trade Unions, but was not a member. The PGFTU became an ICFTU affiliate in 2002.

b. The Right to Organize and Bargain Collectively.—A majority of workers in the occupied territories were self employed or unpaid family helpers. Approximately 35 percent had wage jobs. Most were employed by UNRWA and the PA. Articles 60 to 65 of the labor law stated that conflicts should be resolved by a mediator from the ministry. If the ministry cannot resolve the dispute, it can be referred to a special committee, and, eventually to a special court. Accordingly, in practice the right to strike remained questionable.

There are no export processing zones in the occupied territories, although the Gaza Industrial Estate previously enjoyed free trade access to foreign markets.

c. Prohibition of Forced or Compulsory Labor.—PA law does not prohibit specifically forced or compulsory labor; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum employment age is 15, and there are special conditions for employment between 15 and 18. For minors, working at night, hard labor, and travel outside their area of domicile were prohibited. However, many children under 15 worked in family farms

and shops, or as street vendors, and in small manufacturing enterprises, such as shoe and textile factories. According to the Palestinian Central Bureau of Statistics' Labor Force Survey Report, July-September 2003, 1.7 percent of children 10 to 14 years of age worked in 2003. The PA had only 40 labor inspectors for an estimated 65,000 enterprises. The ILO and UNICEF worked with the PA to develop capacity. During the year, the ILO began to implement its International Program for the Elimination of Child Labor, conducted a survey, and hired a specialist to conduct a technical assessment.

e. Acceptable Conditions of Work.—There was no minimum wage. Prior to 2000, the average wage for full-time workers provided a decent standard of living. The standard of living dropped significantly over the last 4 years.

The normal workweek was 45 to 48 hours. There was no effective enforcement of maximum workweek laws.

The PA Ministry of Labor was responsible for enforcing safety standards, and, while its ability was limited, it carried out some inspections. The ministry stated that new factories and workplaces met international health and safety standards, but that older ones did not. Palestinians who worked in Israel were required to contribute to the National Insurance Institute and received limited benefits.

JORDAN

The Hashemite Kingdom of Jordan is a constitutional monarchy ruled by King Abdullah II bin Hussein. The Constitution concentrates executive and legislative authority in the King. A regent, whose authority is outlined in the Constitution, assumes many responsibilities in the King's absence. The King appoints the Prime Minister and other members of the cabinet who manage the daily affairs of the Government. The Parliament consists of the 55-member Senate, appointed by the King, and a 110-member elected lower house, the Chamber of Deputies. June 2003 multiparty parliamentary elections were generally free and fair; however, the election law significantly under-represented urban areas. The Constitution provides for an independent judiciary; however, in practice, it remained susceptible to political pressure and interference by the executive.

The Public Security Directorate (PSD) controlled general police functions. The PSD, the General Intelligence Directorate (GID), and the military shared responsibility for maintaining internal security, and had authority to monitor security threats. The PSD reports to the Interior Minister and the independent GID reports directly to the King. The civilian authorities maintained effective control of the security forces. Members of the security forces committed a number of serious human rights abuses.

The Government made substantial progress in implementing market-based reforms in a mixed economy. The Department of Statistics estimated the population at the end of the year at 5.32 million. During the year, the economy grew by more than 7 percent in real gross domestic product terms, with an increase of approximately 3.4 percent in the cost of living index. In general, wages and benefits kept pace with inflation, although the Government has not increased the minimum wage since January 2003. High unemployment and persistent poverty, especially in rural areas, coupled with political uncertainty in the region and limited water and energy resources, negatively affected the economy.

Although the Government respected human rights in some areas, its overall record continued to reflect many problems. Reported continuing abuses included police abuse and mistreatment of detainees, allegations of torture, arbitrary arrest and detention, lack of transparent investigations and of accountability within the security services resulting in a climate of impunity, denial of due process of law stemming from the expanded authority of the State Security Court and interference in the judicial process, infringements on citizens' privacy rights, harassment of members of opposition political parties, and significant restrictions on freedom of speech, press, assembly, and association. Citizens did not have the right to change their government. Citizens may participate in the political system through their elected representatives to Parliament; however, the King has discretionary authority to appoint and dismiss the Prime Minister, members of the cabinet and upper house of Parliament, to dissolve Parliament, and to establish public policy. The Government imposed some limits on freedom of religion, and there was official and societal discrimination against adherents of unrecognized religions. There were some restrictions on freedom of movement. Violence against women, restrictions on women's rights, and societal discrimination against women persisted. "Honor" crimes contin-

ued. Child abuse remained a problem, and discrimination against Palestinians persisted. Abuse of foreign domestics was a problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in the previous year, there were no reports of arbitrary or unlawful deprivation of life by the Government or its agents.

There were no new developments in the January 2003 police killing of a man in Ruseifa or the 2002 killing of a youth from Ma'an.

The security services promoted a climate of impunity by their continued reluctance to conduct transparent investigations into allegations of wrongful deaths that occurred during police detention in previous years. In recent years, authorities have been more willing to conduct transparent investigations and have, from time to time, disclosed results.

In 2002, USAID official Lawrence Foley was shot and killed in front of his home. In December 2002, the Government arrested suspects who confessed to the act. In October 2003, five men accused in the killing of Foley proclaimed their innocence, and claimed that security officials had tortured them to elicit their confessions (*see* Section 1.c.). In April, all of the accused were convicted, some in absentia. The Government announced that one suspect convicted in absentia for his role in the killing was in custody as of July and would be retried in accordance with the law, which provides for a new trial in such circumstances.

In 2002, a challenge to government authority by an armed group in Ma'an led to the deaths of five persons, including two police officers and three militants. In September 2003, the man accused of fomenting riots in Ma'an, Mohammed Shalabi, was arrested and put on trial by the State Security Court. Shalabi (known as Abu Sayyaf) claimed he had been tortured and initially denied a lawyer during his investigation (*see* Section 1.c.). Shalabi and 12 other defendants were charged with conspiracy to carry out terrorist acts and possession of explosives. In December, the State Security Court acquitted Shalabi and his co-defendants on the charge of conspiring to commit terror attacks. The court found 11 of the defendants, including Shalabi, guilty for the lesser charge of possessing explosives and sentenced them to prison terms ranging from 6 to 15 years. Two of the defendants were cleared of all charges.

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

c. Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, the police and security forces sometimes abused detainees during detention and interrogation, and allegedly also used torture. Allegations of torture were difficult to verify because the police and security officials frequently denied detainees timely access to lawyers. The most frequently reported methods of torture included beating, sleep deprivation, extended solitary confinement, and physical suspension. Defendants in high-profile cases before the State Security Court claimed to have been subjected to physical and psychological abuse while in detention. Government officials denied allegations of torture and abuse. Defendants in at least six cases before the Security Court during the year alleged that they were tortured while in custody. For example, affiliates of fugitive Jordanian Abu Musab al-Zarqawi, convicted in April of killing USAID official Laurence Foley in 2002, claimed their confessions were derived under duress. Zarqawi's nephew Omar al-Khalayleh, who was sentenced in May with two others for plotting against U.S. and Israeli tourists, also claimed torture. Other Zarqawi accomplices in custody for activities made similar accusations in their trials during the year, including Ansar al-Islam member Ahmad al-Riyati (sentenced in June), fundraiser Bilal al-Hiyari (sentenced in October), and Miqdad al-Dabbas, whose trial was ongoing at years end.

In June 2003, the Court of Cassation overturned the death sentence of convicted terrorist Raed Hijazi. In December 2003, the State Security Court convicted Hijazi and sentenced him to death for the third time. At year's end, he continued to proclaim his innocence and vowed to appeal the verdict again. In October, the Court of Cassation upheld the guilty verdict and commuted Hijazi's sentence to 20 years with no possibility of further appeal.

In October 2003, Mohammad al-Shalabi (*see* Section 1.a.) claimed during his first court appearance that his interrogators tortured him and denied him access to an attorney. In a December 2003 court appearance, after being appointed a lawyer, al-Shalabi repeated his claim and proclaimed his innocence. Several other co-defendants retracted their previous confessions stating that they were extracted under du-

ress. Al-Shalabi's lawyers brought four prison inmates to testify before the court that they noticed marks on al-Shalabi's legs suggesting he had been tortured. Based on his attorneys' request, the court referred al-Shalabi to the National Institute of Forensic Medicine (NIFM) for medical evaluation. The NIFM physicians' report indicated that al-Shalabi had not been tortured and noted no torture marks on his body.

In October 2003, five men who later were convicted for the killing of USAID official Lawrence Foley, claimed innocence in court and asserted that security forces had tortured them to elicit their confessions (*see* Section 1.a.). Bin Suwayyid, one of the defendants, told reporters that interrogators made him sign a confession that he was not allowed "to read or check." Another defendant, Yasser Freihart, reported that interrogators told him that if he did not sign the confession, he "would go back to the cell for more torture and beating."

There were no new developments in the 2002 case of a local newspaper reporter covering anti-Israeli demonstrations in Sweileh who claimed that he was detained, threatened, and "manhandled" by government security forces. Human rights activists believed that similar incidents occurred during the year that were not documented.

Police on several occasions used force to disperse demonstrations during the year, including violent demonstrations held in refugee camps following the death of HAMAS leaders. (*see* Section 2.b.).

Human rights activists reported a number of cases of beatings and other abuses of individuals in police custody during the year. These included accusations surrounding a disturbance at the Juweideh Correctional and Rehabilitation Center and allegations by security detainees. Human rights activists also claimed that detainees are often held incommunicado for up to 2 months after arrest.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Prisons and local police detention facilities were spartan, and on the whole were severely overcrowded and understaffed. Human rights groups and prisoners complained of poor food and water quality, inadequate medical facilities, and poor sanitation in certain facilities.

On September 5, according to press reports and human rights activists, one inmate died and several were injured during a disturbance at the Juweideh Correctional and Rehabilitation Center. Press reports indicated that some inmates became violent after ingesting smuggled hallucinogenic drugs. Prison authorities then used force to regain control. The Government formed a committee to investigate the incident and to review overall prison conditions. At year's end, the trial of 11 officers accused of unnecessary use of force during the disturbance was ongoing.

The Government held men, women, and juveniles in separate prison facilities. The GID held some persons detained on national security grounds in separate detention facilities. The Government held other security detainees and prisoners in regular prisons. Conditions in GID detention facilities were significantly better than general police detention facilities. While security prisoners often were separated from common criminals, conditions for such prisoners did not differ significantly.

Local human rights monitors were allowed to visit prisons; however, they complained that the authorities required them to undertake a lengthy and difficult procedure to obtain permission for such visits. The International Committee of the Red Cross (ICRC) was permitted access to prisoners and detainees, as well as to all prison facilities.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, the Government did not always observe these prohibitions. The Constitution provides that citizens are subject to arrest, trial, and punishment for the defamation of heads of state or public officials and dissemination of "false or exaggerated information outside the country that attacks state dignity." Criminal laws generally required warrants; however, in most cases suspects may be detained for up to 48 hours in the absence of a warrant. Police obtained many warrants after making arrests.

Police forces fall under the leadership of the Director of the PSD, who in turn answers to the Minister of Interior. The Director has access to the King when the seriousness or urgency of a matter demands it. A total of 13 different offices form the basic structure of the PSD. Two of these offices include Preventative Security and the Office of Complaints and Human Rights. Each of the 12 provinces has a police department that also falls under the authority of the PSD Director. Security and Policing activities were effective.

The Preventative Security Office enforces strict rules regarding officer performance. Incidents of poor officer performance ultimately are reported to the PSD Director's Office (*see* Section 1.c.). Corruption within the PSD has not been an issue of significant debate, and there are mechanisms in place to investigate police abuses.

Preventative Security actively investigates security issues, including police corruption. Following the initial investigation, Preventative Security forwards the findings to the Legal Affairs Office for further investigation and possible prosecution in Police Court. Citizens may file a complaint about police abuse or corruption to the Office of Complaints and Human Rights (*see* Section 4). The head of this office reports directly to the PSD Director. New officers in training receive special instruction on how to avoid corruption.

The Criminal Code requires that police notify legal authorities within 48 hours of an arrest and that legal authorities file formal charges within 10 days of an arrest; however, the courts routinely granted requests from prosecutors for 15-day extensions as provided by law. This practice generally extended pretrial detention for protracted periods of time.

In cases involving state security, the security forces arbitrarily arrested and detained citizens. The authorities frequently held defendants in lengthy pretrial detention, did not provide defendants with the written charges against them, and did not allow defendants to meet with their lawyers until shortly before trial. Defendants before the State Security Court usually met with their attorneys only 1 or 2 days before their trial. The Criminal Code prohibits pretrial detentions for certain categories of misdemeanors.

In the past, human rights activists reported that the Government detained hundreds of persons, including journalists (*see* Section 2.a.) and Islamists, for varying amounts of time for what appeared to be political reasons. In the past, human rights groups also reported that there were a smaller number of long-term political detainees.

Local governors had the authority to invoke the Preventing Crimes Law, which allowed them to place citizens under house arrest for up to 1 year without formally charging them (*see* Section 2.d.). House arrest may involve requiring persons to report daily to a local police station and the imposition of a curfew. Persons who violate the terms of their house arrest may be imprisoned for up to 14 days.

The Government used the threat of detention to intimidate journalists into practicing self-censorship (*see* Section 2.2).

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary was not independent in practice and remained subject to pressure and outside interference. The King appoints the Higher Judiciary Council, a committee that determines judicial appointments, advancement, and dismissal. There were numerous allegations in previous years, and some this year, that judges were "reassigned" temporarily to another court or judicial district to remove them from a particular proceeding. Despite constitutional prohibitions against such actions, judges complained of government monitoring of their telephones (*see* Section 1.f.).

The judicial system consists of civil, criminal, commercial, security, and religious courts. Most criminal cases are tried in civilian courts, which include the appeals courts, the Court of Cassation, and the Supreme Court. Cases involving sedition, armed insurrection, financial crimes, drug trafficking, and offenses against the Royal Family are tried in the State Security Court.

Shari'a (Islamic law) courts have jurisdiction over marriage and divorce among Muslims. Christian courts have jurisdiction over marriage and divorce cases among Christians, but apply Shari'a law in inheritance cases (*see* Section 5).

The law provides that all civilian court trials are open to the public unless the court determines otherwise. Defendants are entitled to legal counsel, may challenge witnesses, and have the right to appeal. Defendants facing the death penalty or life imprisonment must be represented by legal counsel. Public defenders are provided if the defendant is unable to hire legal counsel. Civil, criminal, and commercial courts accord equal weight to the testimony of men and women; however, in Shari'a court, the testimony of two women is equal to that of a man's in most circumstances (*see* Section 5).

The State Security Court consists of a panel of three judges, two military officers and one civilian. More than a dozen cases were tried or are ongoing in the State Security Court during the year. Most sessions are open to the public, though some are limited to the press. Defendants tried in the State Security Court often were held in pretrial detention without access to lawyers, although they were permitted regular visits by representatives of the ICRC. State Security Court judges inquired into allegations that defendants were tortured and allowed the testimony of physicians regarding such allegations (*see* Section 1.c.). The Court of Cassation ruled that the State Security Court may not issue a death sentence on the basis of a confession obtained as a result of torture. Defendants in the State Security Court have the right to appeal their sentences to the Court of Cassation, which is authorized to re-

view issues of both fact and law, although defendants convicted of misdemeanors in the State Security Court have no right of appeal. Appeals are automatic for cases involving the death penalty.

The Press and Publications Law permits journalists to cover State Security Court proceedings unless the court rules otherwise. The press routinely reported on cases before the Court, including all cases heard during the year. Such reporting routinely covered defense arguments and any allegations of torture.

In the past, defense attorneys challenged the appointment of military judges to the State Security Court to try civilian cases as contrary to the concept of an independent judiciary. According to human rights activists, military judges appeared to have received adequate training in civil law and procedure.

There were no reports of political prisoners. A "prisoner" is a person deprived of liberty "pursuant to conviction for a crime." However, the Government detained, deprived of liberty from the time of arrest to conviction or release, persons for varying periods of time for political reasons (*see* Section 1.d.).

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The law requires that security forces obtain a warrant from the Prosecutor General or a judge before conducting searches or otherwise interfering with these rights; however, in security cases, at times in violation of the law, the authorities obtained warrants retroactively or obtained pre-approved warrants. Security officers officially monitored telephone conversations and Internet communication, read private correspondence, and engaged in surveillance of persons considered to pose a threat to the Government or national security. The law permits these practices if the Government obtains a court order. In the past, judges complained that their telephones were surveilled unlawfully (*see* Section 1.e.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, the Government imposed significant restrictions on these rights in practice.

The Press and Publications Law and the Press Association Law imposed stringent restrictions on the operation of newspapers. The Government also intimidated journalists to encourage self-censorship. Citizens may be prosecuted for slandering the Royal Family, the Government, or foreign leaders, and for "sowing sedition." Citizens generally did not hesitate to criticize the Government openly, but exercised caution with regard to the King, the Royal Family, and the GID. The Press and Publications Law and the law governing the Jordan Press Association (JPA) require membership in the JPA for persons to be considered "legal" journalists or editors, thus potentially excluding dozens of practicing journalists from the profession. During the year, the Government selectively enforced this provision.

In May, the Government summoned Fahd Al-Rimawi for questioning, allegedly for writing an article critical of Saudi Arabia in his weekly newspaper, Al-Majd. Al-Rimawi was released and continued to write opinion pieces as the editor of Al-Majd.

In September, the Government detained and released 11 unlicensed preachers. The Government claimed that it acted to enforce a long-standing law requiring preachers, of all religions, to be licensed. Some human rights activists accused the Government of selectively enforcing this law in a way that restricts free speech.

In December, the Government detained overnight Ali Hattar, a member of the Jordan Engineers Association, and charged him with slandering the government in a public lecture. The case was moved from the penal court to the magistrate's court in Salt and was scheduled to reconvene in early 2005.

There were no developments in the alleged censorship of a political cartoon in November 2003 in the weekly newspaper Al-Wahda.

The Press and Publications Law provides the Government with limited ability to issue fines, transfers the power to withdraw licenses to the judiciary, limits significantly the Government's power to order shutdowns, allows journalists to cover court proceedings unless the court ruled otherwise, and requires publications to be licensed. The Law imposes strict limits on publications, which gave the Government broad leeway to impose sanctions. Journalists alleged that the Government uses informants and censors at printing presses to inform the Government if particularly objectionable material is slated for print in the news media.

The Penal Code restricts free speech and allows the prosecution of any person found to have written, published, or aired any statements that could be construed to harm or incite to harm or insult individuals or "the state's reputation and dignity." Imprisonment of 3 years is punishment for defamation of the King or Royal Family.

Journalists also may be prosecuted before the State Security Court for criminal and security violations. Although a substantial number of cases were dismissed before trial, some cases lingered in the courts for years. The Government routinely used detention and prosecution or the threat of prosecution to intimidate journalists into self-censorship (*see* Section 1.d.).

No incidents occurred during the year, but in February 2003, three journalists were charged with blasphemy and slandering the government. They received prison terms ranging from 2 to 6 months and returned to work after their release.

In 2001, the Government arrested seven members of the Anti Normalization Committee, a group that opposes the country's relations with Israel, on charges of belonging to an illegal group (*see* Section 2.b.). The State Security Court also charged two of the seven with possession of explosives and with terrorist activities. All seven detainees were released on bail while awaiting trial. At year's end the trials had not yet begun.

The Press and Publications Department continued to enforce bans on the publication of a number of books within the country. Books were banned based on religious, moral, and political objections.

High taxes on media and tariffs on paper caused journalists to reduce the size of their publications. Journalists also criticized the Government for advertising predominantly in newspapers in which the Government owned shares.

The law provides foreign media operations freedom of expression and the Government did not block the entry of foreign publications during the year.

Radio and television news broadcasts, more restricted than the print media, were liberalized slightly during the year. The Government created a new Audio Visual Licensing Authority, which regulated and licensed private radio and television broadcasts for the first time. The Government also licensed one new radio station and a satellite television broadcaster that had not begun transmission by years end. Under commercial agreements with each entity, the Government re-broadcasts the regional programs of the British Broadcasting Corporation, the London-based Middle East Broadcasting Center, Radio Monte Carlo, and Radio Sawa. Jordan Television (JTV) reported only the Government's position on controversial matters. International satellite television and Israeli and Syrian television broadcasts were available and unrestricted.

The Government opened investigations attempting to determine who was responsible for Internet sites that allegedly libeled the King; however, no one was known to be prosecuted in such cases during the year. In the past, there were reports of government interference with Internet access, including several websites that appear to have been blocked. The Government allowed Internet news sites to operate in the country, including those presenting news critical of the Government.

The Government limited academic freedom. Some academics claimed that they received frequent threats of dismissal. During the year, sources in the academic community claimed that there was an ongoing intelligence presence in academic institutions.

During the year, Jordan University continued its policy of granting the president of the university the authority to appoint half of its 80-member student council, including the chair. The amendment was viewed widely as an effort to curb the influence of campus Islamists. Many students, including non Islamists, continued to object to the university's decision.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government restricted this right. Citizens must obtain permits for public gatherings. The Government generally granted permits for protests it finds objectionable only after extensive negotiations with the organizers. The law requires the organizers of rallies and demonstrations request permission from provincial governors at least 3 days prior to any event. Under the law, no protest may be held without the governor's consent, and violators face imprisonment from 1 to 6 months and a fine not to exceed $4,230 (3,000 dinars).

In some cases, the Government granted approval at the last moment, making it difficult for organizers to plan effective demonstrations.

On March 26, the Government detained protestors at the Al Wihdat refugee camp in the southern suburbs of Amman, claiming that the demonstration was not licensed. According to media reports, more than 60 persons were detained for burning the national flag and destroying property. Human rights activists claimed more than 200 demonstrators were detained. The demonstration began after Friday prayers in reaction to the death of Hamas leader Sheikh Ahmed Yassin. The Government claimed it filed formal charges against some of the detainees while releasing those under 18. Member of Parliament Tayseer Al-Fitiani alleged that riot police

beat him with clubs upon his arrival at the Al Wihdat police station after demonstrators had dispersed.

The Constitution provides for the right of association; however, the Government limited freedom of association by law. Several university students, mostly Islamists, were taken before academic disciplinary councils during the year for political activities unrelated to their studies and punished with dismissal or the inability to sit for exams. The Government required and routinely granted approval for nonpolitical conferences, workshops, and seminars.

The Government prohibits membership in an unlicensed political party and routinely licensed political parties and other associations. There were 30 licensed political parties. The Government may deny licenses to parties that it decides do not meet a list of political and other criteria contained in the Political Parties Law. The High Court of Justice may dissolve a party if it violates the Constitution or the Political Parties Law.

c. Freedom of Religion.—The Constitution provides for freedom of religion, provided that religious practices are consistent with "public order and morality"; however, the Government continued to impose some restrictions on freedom of religion. According to the Constitution, Islam is the state religion.

Members of unrecognized religious groups and converts from Islam faced legal discrimination and bureaucratic difficulties in personal status cases. The Government prohibits non-Muslims from proselytizing Muslims.

Persons enjoy freedom of belief, and there were no reports that the practice of any faith was prohibited. The Government does not officially recognize all religious groups. Some religious groups, while allowed to meet and practice their faith, complained of societal and/or official discrimination. In addition, not all Christian denominations have been accorded legal recognition as religions. The Prime Minister unofficially conferred with an interfaith council of bishops representing local churches on all matters relating to the Christian community, including the registration of new churches in the country. The Government used the following criteria when considering recognition of Christian churches as separate official religions: The faith does not contradict the nature of the Constitution, public ethics, customs, or traditions; the faith is recognized by the Middle East Council of Churches; the faith does not oppose the national religion; and the group includes some citizen followers.

The Government did not recognize the Druze or Baha'i faiths as religions but did not prohibit the practice of the faiths. Druze faced official discrimination but did not complain of social discrimination. Baha'is faced both official and social discrimination. The Government did not record the bearer's religion on national identity cards issued to Druze or Baha'is.

The Government did not recognize Jehovah's Witnesses, the Church of Christ, or the Church of Jesus Christ of Latter-day Saints, but each of these denominations was allowed to conduct religious services and activities without interference.

The Government did not interfere with public worship by the country's Christian minority.

The Jordan Evangelical Theological Seminary (JETS), a Christian training school for pastors and missionaries, had not been accredited by year's end. As a result, students and faculty from the U.S. and elsewhere wishing to attend JETS still were unable to obtain student visas. JETS continued its operations with students studying on tourist visas and broke ground for a new building in August 2003.

Shari'a prohibits non-Muslims from proselytizing Muslims. Conversion to the Muslim faith by Christians was allowed; however, a Muslim may not convert to another religion. Muslims who convert to other faiths complained of social and government discrimination. Under Shari'a, converts are regarded as apostates and legally may be denied their property and other rights. However, in practice, this principle was not applied. According to the Government, it neither encouraged nor prohibited apostasy. Converts from and to Islam are considered Muslims under Shari'a law on matters of personal status. Shari'a prescribes the death penalty for Muslims who convert to another religion; however, there is no corresponding statute under national law, and such punishment never has been applied.

The Constitution provides that religious community trusts and matters of personal status fall within the exclusive jurisdiction of the Shari'a courts for Muslims, and separate non-Muslim tribunals for each religious community recognized by the Government. There is no civil marriage. The head of the department that manages Shari'a court affairs (a cabinet-level position) appoints Shari'a judges, while each recognized non Muslim religious community selects the structure and members of its own tribunal. All judicial nominations are approved by the Prime Minister and commissioned officially by royal decree. The Protestant denominations registered as "societies" come under the jurisdiction of one of the recognized Protestant church

tribunals. There are no tribunals assigned for atheists or adherents of unrecognized religions. These persons must request one of the recognized courts to hear their personal status cases.

On September 13, a convert from Islam to Christianity was arrested and held overnight for charges of apostasy. A Shari'a court issued a guilty verdict on November 23. At year's end, no written verdict had been issued or punitive action taken, and the accused reportedly had left Jordan with his family.

In 2002, the Shari'a and civil court systems adjudicated a child custody case and transferred legal custody of two minors who were raised as Christians from their Christian mother to her Muslim brother. At year's end, the children remained in her physical custody pending the result of a counter suit filed against the Muslim brother claiming disinterest in the children and misuse of the children's trust funds.

Men may divorce their spouses more easily than women; however, since 2001, Shari'a courts have granted over 500 divorces brought by women (*see* Section 5). The new lower house of parliament rejected the law permitting this initiation by women in August 2003, but the upper house approved it. At year's end, Parliament has not taken final action and the law remained in effect.

All minor children of a male Muslim who converts to another religion automatically are considered to be Muslim. Adult children of a male Christian who has converted to Islam become ineligible to inherit from their father if they do not themselves convert to Islam. Muslim converts, and minor children of male converts to Christianity are not recognized legally as Christians and continue to be treated as Muslim in matters of family and property law.

The Government noted individuals' religions (except for Druze, Baha'is, and other unrecognized religions) on the national identity card and "family book" (a national registration record issued to the head of every family that serves as proof of citizenship) of all citizens. Atheists must associate themselves with a recognized religion for official identification purposes.

In May 2003, a court sentenced poet Musa Hawamdeh to 3 months in prison on apostasy charges stemming from one of his controversial poems. In August 2003, the Court of Appeal reaffirmed the verdict. Hawamdeh maintained that he would make a final appeal to the Court of Cassation.

Government policy requires that foreign missionary groups refrain from public proselytizing "for the sake of their own personal safety from members of society that oppose such practices." The Government has taken action against some Christian proselytizers in response to the complaints of recognized Christian groups who charge that the activities of these missionaries "disrupt the cohesiveness and peace between religious groups in society."

Anti Semitic editorial cartoons, articles and opinion pieces, usually the rhetoric of political columnists, were published in the newspapers "Al-Rai" and "Al-Dustur". They were not common, but they did occur without government response.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, there are some restrictions. The law requires that all women obtain written permission from a male guardian to apply for a passport; however, women do not need a male relative's permission to renew their passports. In the past, there were several cases in which mothers reportedly were prevented from departing with their children because authorities enforced requests from fathers to prevent their children from leaving the country (*see* Section 5). The GID sometimes withheld passports from citizens on security grounds.

Local governors may use the Preventing Crimes Law to place citizens under house arrest for up to 1 year without formally charging them (*see* Section 1.d.). House arrest may involve requiring persons to report daily to a local police station while under curfew. Persons who violate the terms of house arrest may be imprisoned for up to 14 days.

Persons with full citizenship receive passports that are valid for 5 years. Most Palestinians living in the country were citizens and received passports; however, the Government estimated that there are 150,000 Palestinian refugees who do not qualify for citizenship. They receive 3-year passports valid for travel but which do not connote citizenship. West Bank residents without other travel documentation are eligible to receive 5-year passports for travel only and do not connote citizenship.

Human rights activists continued to charge that the Government did not apply consistently citizenship laws, especially in cases in which passports were taken from citizens of Palestinian origin. The Government claimed this policy is in line with its efforts to implement the Government's disengagement from its former claims to the

West Bank. However, citizens complained that the process is not transparent and the appeal process is virtually non-existent. Persons or families filed appeals with the Ministry of Interior, which were not resolved to their satisfaction. The Government asserted that the cases it has closed all involved persons without valid claims to citizenship or travel documents.

Human rights activists reported that approximately 1,200 citizens of Palestinian origin remained outside the country, due to the Government's refusal to renew their passports at embassies overseas. The Government asserted that only non-resident Palestinians who seek to renew travel documents, which require proof of residence in the country, have been refused.

The Constitution prohibits forced exile and the Government did not use forced exile.

The Government has not established a system for providing protection to refugees; however it does not force the return of persons to a country where they fear persecution. The Government generally cooperated with the office of the United Nations High Commissioner for Refugees (UNHCR) in assisting refugees and asylum seekers. The Government respected the UNHCR's eligibility determinations regarding asylum seekers, including those who entered the country clandestinely and recognized the legal definition of a refugee as set forth in the U.N. Convention. In March 2003, the Government also signed a letter of understanding with UNHCR agreeing to provide protection against the forcible return of persons displaced by hostilities in Iraq requiring humanitarian assistance. UNHCR continued to train law enforcement officials and judges in international refugee law, including training for instructors from the National Center for Human Rights who conduct a course for entry-level government officials.

The Government generally provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. The Government generally recognized UNHCR's request that states continue to grant some temporary protection for all Iraqi asylum seekers, including new arrivals, rejected cases, and recognized refugees whose cases had been suspended by resettlement countries. However, UNHCR reported that a significant number of Iraqis were refused entry into the country during this period. It also reported that it had to intervene to prevent the deportation of persons issued UNHCR asylum seeker cards during the reporting period in several instances during the year.

The U.N. Relief and Works Agency for Palestine Refugees (UNRWA) and the Government continued to provide assistance to 1.768 million Palestinian refugees during the year. Approximately 700,000 displaced persons from former Jordanian territories during the 1967 war have been granted nationality. An additional 120,000 displaced persons during the 1967 war hold temporary residency permits. There was public debate over the Government's extension of assistance to those refugees who do not hold Jordanian nationality during the year.

Prior to the war, the Government estimated that over 300,000 Iraqis resided in the country. Since 1991, thousands of Iraqis have applied for refugee status and received legal and material assistance from the UNHCR. In April 2003, the Government agreed to admit persons displaced by the hostilities in Iraq.

UNHCR received applications for refugee status determination from 6,004 Iraqis during the year. In addition to applications from Iraqis, UNHCR also received applications from 75 Sudanese, 31 Egyptians, 33 Syrians and 43 stateless persons. According to UNHCR figures, during the year, 12,616 persons were seeking asylum, another 1098 persons recognized as refugees were awaiting resettlement, and 78 Chechens were allowed to remain indefinitely pending repatriation. The Government provided protection at the UNHCR camp at Ruweished to approximately 323 Palestinian refugees who fled in Iraq in April 2003. The Government also continued to provide temporary protection to approximately 700 recognized refugees, mostly Iranian Kurds formerly resident in UNHCR's Al Tash camp in Iraq, in the UNHCR camp in the no-man's land between Iraqi and Jordanian border checkpoints at the Karamah-Trebil crossing. UNHCR assisted several hundred Ruweished and no-man's land residents to voluntarily repatriate to Iraq during the reporting period. It also continued to provide financial assistance to 387 Palestinians from Iraq who had been permitted to leave the Ruweished camp and enter the country proper per royal decree in August 2003.

The Government continued its policy of denying children of Iraqi asylum seekers admittance to school unless their families presented evidence that they had established legal residency in the country.

According to IOM statistics, between January 1 and December 1, the Government also granted protection to 170 third country nationals fleeing Iraq en route to Sudan, Bangladesh, Morocco, Somalia, Egypt, Uzbekistan, Sri Lanka, and Nigeria. An additional 64 Sudanese remained in the country awaiting third-country repatri-

ation at year's end. The Government also facilitated the transit of approximately 1,200 Iraqis voluntarily returning to Iraq from third-countries, primarily from Europe. IOM verified that all repatriations to Iraq and to third-countries were voluntary.

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

Citizens do not have the right to change their government. Citizens may participate in the political system through their elected representatives in Parliament; however, the King has discretionary authority to appoint and dismiss the Prime Minister, cabinet, and upper house of Parliament, to dissolve Parliament, and to establish public policy.

After being appointed by the King, a prime minister is required to submit his cabinet to a parliamentary vote of confidence, if there is a seated parliament. In practice, Parliament routinely granted its confidence, although not without substantive debate. In the most recent vote of confidence in December 2003, 85 of 110 deputies voted in support of the Government. Executive power is vested in the King (or, in his absence, in the Regent), who exercises his power through his ministers in accordance with the provisions of the Constitution. June 2003 parliamentary elections generally were regarded as free and fair.

The Parliament is composed of a 55-member Senate appointed by the King, and a popularly elected 110-member Chamber of Deputies. The Constitution provides authority to the Parliament to initiate legislation and to approve, reject, or amend legislation proposed by the cabinet. A group of 10 senators or deputies may submit draft bills for consideration; however, in practice legislation is initiated and drafted by the Cabinet of Ministers and submitted by the Government to Parliament for consideration.

In November 2003, the King appointed a new Senate, and reappointed Zeid Rifai as Senate President. Fourteen senators were carried over from the previous 40-member Senate. In line with tradition, the Senate contains a large number of former government officials, including 24 former ministers and 4 former prime ministers. The number of female members increased from three to seven, while the number of senators of Palestinian origin decreased from nine to seven (*see* Section 5).

The law allows voters to choose one candidate in multiple seat districts. In the largely tribal society, citizens tended to cast their vote for family members. Observers believed that the law continues to give greater proportional representation to electorates in the rural and southern part of the country, as well as in regions with populations known for their traditional, pro-Hashemite views, resulting in significant under-representation of urban areas. In practice, the chances of non-tribal candidates, to be elected were limited.

The 2001 election law increased the number of electoral districts by redrawing district boundaries and redistributing seats among districts, required verification of polling results by members of the judiciary, and lowered the voting age to 18 years. A February 2003 amendment included a six-seat quota for women in the House of Deputies. Citizens may freely nominate themselves and register as candidates as long as they do not have a criminal history.

The King proposes and dismisses extraordinary sessions of Parliament, and may postpone regular sessions for up to 60 days. If the Government amends or enacts a law when Parliament is not in session, it must submit the law to Parliament for consideration during the next session; however, such "provisional" laws do not expire and, while technically subject to action by Parliament when it returns to session, may in practice remain in force without legislative approval.

The country is divided into 99 municipalities for purposes of local governance. A 2002 provisional law gives the King the power to appoint all mayors and half the municipal councils. Opponents of these measures claimed that the consolidations were an attempt to undermine the strength of Islamist parties in local Government, and that they would weaken the democratic process at the municipal level by reducing the number of locally elected officials. The Islamic Action Front (IAF) sought to enjoin the Government from making the consolidations, but the courts held that the IAF had no standing to initiate action against the consolidation.

The June 2003 municipal elections were regarded as generally free and fair; however, some losing candidates claimed that voter fraud was a problem. The IAF boycotted the elections in all districts outside of greater Amman to protest the provisional law on appointing municipal officials.

Women have the right to vote, and women's groups encouraged women to vote and to be active in the political process. There were four female ministers. In the Parliament there were seven female senators, up from three in the previous Senate,

and six female members of the Chamber of Deputies, up from one in the previous Chamber.

Of the 110 seats in the lower house, 9 are reserved for Christians, 9 for Bedouins, and 3 for either the Circassian or Chechen ethnic minorities.

The Palestinian community, estimated at more than half of the total citizen population, contributed 7 of 21 ministers. In the Parliament, 7 of 55 senators and 17 of 110 lower house deputies were of Palestinian origin. There were no Palestinians in any of the 12 governorships throughout the country. The electoral system gives greater representation to areas that have a majority of inhabitants of non-Palestinian origin.

Allegations of corruption were leveled against the executive and legislative branches. Parliamentary debate focused on corruption when the Government proposed transparency laws requiring financial disclosure for Government officials. At years end, the proposed transparency laws still were being debated in Parliament.

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

A number of domestic and international human rights groups generally operated with government restriction, investigating and publishing their findings on human rights cases alleging torture and other abuses committed by the security forces. Within these limits, government officials were cooperative and responsive to their views. The Press and Publications Law removed restrictions on the publication of information about the military and security forces, which had prevented the publication by domestic groups of reports alleging torture and other abuses committed by the security forces; however, similar restrictions still exist in the Penal Code and other laws (*see* Section 2.a.).

The local chapter of the Arab Organization for Human Rights (AOHR) and the Jordanian Human Rights Organization (JHRO) continued to operate with the permission of the Government. In 2002, the Ministry of Interior dissolved the Jordanian Society for Citizens' Rights (JSCR), one of the few human rights groups not affiliated with any political movements or the Government. The Government reported that it closed the JSCR because of legal infractions and internal disputes related to finances. However, the JCSR claimed the closure was for political reasons, including the JSCR's reporting of Palestinian citizens losing their passports as a result of the 1988 disengagement laws. On July 25 the Society applied for registration with the Ministry of Interior under the new name of the Jordan Organization for Citizen Rights (JOCR). The Ministry of Interior officially denied the application on October 11.

The National Center for Human Rights, a quasi-governmental body with educational, protective, and reporting responsibilities, began operations in June 2003. Its activities included training government and international organization personnel on human rights standards and conditions in the country and collection and analysis of citizens' complaints. The Government cooperated with and funded the center; some human rights activists complained that it was too influenced by the Government.

In March 2003, the Ministry of Foreign Affairs created a Human Rights Directorate, focused on ensuring government compliance with international agreements and cooperation with international organizations.

In May 2003, the PSD opened human rights complaints offices at each of its regional directorates. Persons charging police misconduct may submit complaints to the relevant office, and the Government reported that cases backed by sufficient evidence can result in police officers being tried under the Public Security Law. Plaintiffs may file compensation claims for damages, and convicted officers reportedly also are subject to disciplinary action. Citizens filed 285 complaints in 2003, of which 80 were found to be valid and resulted in either court trials or disciplinary measures for the officers involved.

The Government directed the Parliamentary Public Freedoms Committee and the Human Rights Office at the Prime Ministry.

The Government generally cooperated with international nongovernmental organizations (NGOs), but human rights observers claimed that some security detainees were held incommunicado. The ICRC was permitted full access to detainees and prisoners, including those held by the GID and the military intelligence directorate (*see* Section 1.c.).

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law does not distinguish between citizens on the basis of race; however, women and some minorities were treated differently under the law and faced discrimination in employment, housing, and other areas. Some private political groups

such as the Anti-Normalization Committee, which is opposed to ties with Israel, acted through various professional organizations to restrict the freedoms of individuals who have had dealings with Israel. The Government opposed the activities of the Committee.

Women.—Violence against women was common; however, reported incidents of violence against women did not reflect the full extent of the problem. Medical experts acknowledged that spousal abuse occurred frequently. However, cultural norms discouraged victims from seeking medical or legal help, thus making it difficult to assess the extent of such abuse.

Abused women have the right to file a complaint in court against their spouses for physical abuse; however, in practice, familial and societal pressures discouraged them from seeking legal remedies. Marital rape is not illegal. NGOs such as the Jordanian Women's Union, which had a telephone hotline for victims of domestic violence, provided assistance in such matters. Wife battering technically was grounds for divorce, but a husband may seek to demonstrate that he has authority from the Koran to correct a perceived irreligious or disobedient wife by striking her.

The Criminal Code provides for leniency for a person found guilty of committing an "honor crime," a violent assault with intent to kill against a female by a relative for her perceived immodest behavior or alleged sexual misconduct. Law enforcement treatment of men accused of honor crimes reflected widespread unwillingness to recognize the abuse involved or to take action against the problem. During the year, 18 honor crimes committed against women were reported. In 2003, 15 cases were reported. The actual number of honor crimes was most likely higher. Human rights observers believed that more killings occurred but were not documented as honor crimes. According to women's rights activists, there was some evidence of a societal trend toward condemnation of honor crimes. The police regularly imprisoned women who were potential victims of honor crimes for their own protection. Activists estimated that more than 25 women were detained in such "protective" custody.

The penal code provides that a "crime of honor" defense may be invoked by a defendant accused of a killing who "surprises his wife or any close female relative" in an act of adultery or fornication, and the perpetrator of the honor crime is judged not guilty of a killing. Although few defendants are able to meet the stringent requirements for a crime of honor defense (the defendant personally must have witnessed the female victim engaging in sexual relations), most avoided trial for the crime of a killing, and were tried instead on the charge of manslaughter. Even those convicted of murder rarely spent more than 2 years in prison. In contrast to honor crimes, the maximum penalty for first-degree murder is death, and the maximum penalty for second-degree murder is 15 years. Such defenses also commonly relied on the male relative having acted in the "heat of passion" upon hearing of a female relative's alleged transgression, usually without any investigation on the part of the assailant to determine the veracity of the allegation before committing the assault. Defenses in such cases fall under Article 98 of the Penal Code. A provisional law amended Article 340 to apply equally to men and women; however, this legal change did not affect substantially the sentencing of perpetrators of honor crimes, as no defendant in an honor crime invoked Article 340 during the year. Most activists believed that even if Article 340 were repealed, honor crimes likely would persist, with sentences continuing to be reduced under Article 98. In July, the Ministry of Justice submitted draft legislation to the cabinet increasing the minimum punishment for all killings, regardless of motivation, to 5 years. No further action has been taken by years end.

Some instances of honor killings included a 36-year-old man who killed his 25-year-old cousin as she was recovering in a hospital after a Caesarean delivery on June 2. The victim became pregnant with the child of a married man. Two other male cousins of the victim accompanied the man as he shot her six times. A nurse and the newly born baby were both in the room during the shooting. All three cousins turned themselves in the same day and remained in custody pending their trial.

In another case, on July 1, a younger brother stabbed his 26-year-old sister to death. The brother turned himself in to the authorities shortly after the killing claiming family honor motivated his actions. The victim had been released from protective custody the day before after her family signed a guarantee that they would not harm their daughter. The victim had become pregnant out of wedlock almost a year earlier. The brother remained in custody pending his trial.

In July 2003, police arrested an 18-year-old boy for shooting his 16-year-old sister after her father secured her release by guaranteeing her safety. The case had not gone to trial at years end.

In September 2003, three brothers were arrested for hacking their two sisters to death with an axe. The older sister married without her family's consent, and the

younger victim was living with her sister at the time. According to press reports, in their confession the brothers stated that they acted to "cleanse the family's honor." In November, the courts sentenced two of the brothers to death and then reduced the sentence to 10 years imprisonment. The third brother was cleared of all charges.

In contrast with 2003, there were no reports during the year that female genital mutilation (FGM) was practiced.

According to the law, sexual harassment is strictly prohibited and subject to criminal penalties including fines and imprisonment. Sexual harassment, assault, and unwelcome advances of a sexual nature against women did not appear to be widespread problems.

Women experienced legal discrimination in matters of pension and social security benefits, inheritance, divorce, ability to travel, child custody, citizenship, and the value of their Shari'a court testimony in certain limited circumstances (*see* Section 1.e.). The Government provided men with more generous social security benefits than women. The Government continued pension payments of deceased male civil servants but discontinued payments of deceased female civil servants to their heirs. Laws and regulations governing health insurance for civil servants do not permit women to extend their health insurance coverage to dependents or spouses. However, divorced and widowed women may extend coverage to their children.

Under Shari'a as applied in the country, female heirs receive half the amount that male heirs receive, and non-Muslim widows of Muslim spouses have no inheritance rights. A sole female heir receives half of her parents' estate; the balance goes to designated male relatives. A sole male heir inherits both of his parents' property. Male Muslim heirs have the duty to provide for all family members who need assistance. Men are able to divorce their spouses more easily than women, although a provisional law introduced in 2002, which was under debate in Parliament, adds to the circumstances under which a woman may file for divorce (*see* Section 2.c.). At year's end, the issue remained under consideration with the Upper House after the Lower House rejected the law for a second time in June, but the provisional law remained in effect. Special courts for each denomination adjudicated marriage and divorce matters for Christians (*see* Section 2.c.). There were 19 female judges in the country, up from 11 in 2002.

The law requires a married woman to obtain her husband's permission to obtain, but not to renew, a passport (*see* Section 2.d.). Married women do not have the legal right to transmit citizenship to their children. Furthermore, women may not petition for citizenship for their non-citizen husbands. The husbands themselves must apply for citizenship after fulfilling a requirement of 15 years of continuous residence. Once the husbands have obtained citizenship, they may apply to transmit the citizenship to their children. However, in practice, such an application may take years and, in many cases, citizenship still may be denied to the husband and children. Such children become stateless and, if they do not hold legal residency, lack the rights of citizen children, such as the right to attend school or seek other government services.

Civil law grants women equal pay for equal work; however, in practice, this law sometimes was ignored. During the year, press and union leaders reported that a small number of employers in the private sector paid their female employees less than the legal minimum wage, despite the fact that the women were under contract, and that wage disparity increased with salary.

Social pressures discouraged many women from pursuing professional careers. Nonetheless, women had employment opportunities in many professions, including government, engineering, medicine, education, the military, and law. Women's groups stressed that the problem of discrimination was not only one of law, but also of women's lack of awareness of their rights or unwillingness to assert those rights. The Business and Professional Women's Club held seminars on women's rights and assisted women in establishing small businesses. The chapter was also one of the organizations providing programs for potential female voters and candidates leading up to the parliamentary elections. Members of the Royal Family worked actively to improve the status of women. The Jordanian National Commission for Women organized a series of conferences to develop a strategy to increase women's role in the country's political development.

Children.—The Government is committed to children's rights and welfare in the areas of education and health; however, government efforts in these areas were constrained by limited financial resources. Education is compulsory until the age of 16; however, no legislation exists to enforce the law or punish guardians for violating it, and absence of children from school is without penalty. The overall school attendance and total secondary school attendance rates remained at 92 percent. Several

domestic and foreign religious groups operated private schools throughout the country. Since the beginning of the 1999–2000 school year, the Government denied Iraqi children admittance to public school unless they were legal residents of the country or recognized as refugees by the UNHCR (*see* Section 2.d.).

The Government attempted to address the issues of educational development and quality, and the relevance of education to job market demand, with few concrete results. The Government did not charge tuition for public education and it granted food and transportation supplements to families with many children or to very poor families.

Students must obtain a good behavior certificate from the GID to qualify for admission under the university quota system. Activists reported that the GID sometimes withheld these certificates from deserving students due to a family member's allegedly problematic record.

The Government provided free inoculation programs typically administered through the school system for children. In addition, children had access to government-subsidized public clinics, which offer reduced fees for most services.

The National Team for Family Protection (NTFP) coordinated all issues concerning family safety. The Government-funded "Dar al Amman," the nation's first child protection center, provided temporary shelter, medical care, and rehabilitation for children age 6 to 12 who have suffered abuse.

Although the problem was difficult to quantify, social and health workers believed that there was a significant incidence of child abuse in families, and that the incidence of child sexual abuse was significantly higher than reported. The law specifies punishment for abuses against children. Rape or sodomy of a child under 15 years of age carries the death penalty.

The Family Protection Unit of the PSD worked with victims and perpetrators of domestic and sexual violence. The Unit dealt primarily with child and spousal abuse, providing multiple in-house services, including medical treatment for patients. The Unit cooperated with police to apprehend perpetrators of domestic violence, facilitated participation in education and rehabilitation programs, and referred patients to other facilities.

Illegitimate children are entitled to the same rights under the law as legitimate children; however, in practice, they suffered severe discrimination in a society that does not tolerate adultery or premarital sex. Most illegitimate children become wards of the State or lived a meager existence on the fringes of society. In either case, their prospects for marriage and gainful employment were limited. Furthermore, illegitimate children who were not acknowledged legally by their fathers were considered stateless and were not given passports or identity numbers.

The Government attempted to safeguard some other children's rights, especially regarding child labor (*see* Section 6.d.). Although the law prohibits most children under the age of 16 from working, child vendors worked on the streets of Amman. The Ministry of Social Development has a committee to address the problem and, in some cases, removed the children from the streets, returned them to their families or to juvenile centers, and provided the families with a monthly stipend; however, the children often returned to the streets. Economic conditions and social disruption have caused the number of these children to increase over the last 10 years. Child vendors sold newspapers, tissues, small food items, or gum, and other children who picked through trash dumpsters to find recyclable cans to sell, sometimes were the sole source of income for their families.

Trafficking in Persons.—The law prohibits trafficking in children; however, it does not specifically prohibit trafficking in other persons. Other criminal statutes prohibit slavery and indentured servitude. There were no confirmed reports that persons were trafficked to, from, or within the country. To reduce the potential for abuse of foreign domestic workers (FDWs), the Government adopted new and stricter procedures that regulate the importation of such labor (*see* Section 6.e.). While these changes improved the legal framework to protect FDWs, lack of awareness among employers and employees remained a problem. The Government has undertaken a cooperative program with UNIFEM to raise the awareness of FDWs on the new protections afforded them.

The Government did not formally assign anti-trafficking duties to a specific body, nor did it have a national action plan, and it was limited financially in its ability to carry out trafficking related programs. However, a number of programs helped combat trafficking in women and children, such as a Ministry of Social Development program to rehabilitate street children and Ministry of Labor vocational training programs for young rural women.

The interagency Family Protection Department (FPD) offered assistance to all victims of abuse, as well as FDWs, including medical exams, consular notification, and

access to counseling. The Government did not provide training on how to assist victims of trafficking; however, the FPD raised the profile of abuse within the country and its personnel became increasingly adept at handling this crime.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. High unemployment restricts job opportunities for persons with disabilities, who numbered 220,000. Thirteen percent of citizens with disabilities received monetary assistance from the Government. The Government passed legislation in 1993, reinforced in 2000, requiring future public buildings to accommodate the needs of persons with disabilities and to retrofit existing public buildings; however, implementation has been slow.

The law requires that 2 percent of available public sector jobs be reserved for persons with physical disabilities. Private organizations and members of the Royal Family actively promoted programs to protect and advance the interests of persons with disabilities.

National/Racial/Ethnic Minorities.—Palestinians residing in the country suffered discrimination in appointments to positions in the Government and the military, in admittance to public universities, and in the granting of university scholarships. The Government granted citizenship to all Palestinians who fled to the country in the period after the 1948 Arab-Israeli war, and to a large number of refugees and displaced persons who arrived as a result of the 1967 war. However, most refugees who fled Gaza after 1967 were not entitled to citizenship and were issued 3-year passports valid for travel only. In 1995, then-King Hussein announced that West Bank residents without other travel documentation would be eligible to receive 5-year passports. However, the Government emphasized that these passports are for travel only and do not connote citizenship (*see* Section 2.d.).

Indigenous People.—The country's indigenous people, nomadic Bedouin and East Bank town-dwellers, traditionally have been the backbone of popular support for the Hashemite monarchy and dominated in senior military, security, civil service positions, and in the Parliament. Nevertheless, many Bedouin in rural areas were disadvantaged economically.

Section 6. Worker Rights

a. The Right of Association.—Workers in the private sector, in some state-owned companies, and in certain professions in the public sector have the right to form and join unions without excessive requirements and did so in practice. Unions must be registered to be legal. Union by-laws limit membership to citizens, effectively excluding the country's more than 125,000 registered foreign workers. However, some unions represented the interests of foreign workers informally. More than 30 percent of the work force was organized into 17 unions. Unions are required by the Government to be members of the General Federation of Jordanian Trade Unions (GFJTU), the sole trade union federation. The Government subsidizes and audits the GFJTU's salaries and activities. Union officials are elected by secret ballot to 4 year terms. The Government cosponsors and approves the timing of these elections and monitors them to ensure compliance with the law. Union leaders complained about the requirement for government oversight of their elections.

The Constitution prohibits anti-union discrimination, but the ICFTU claimed that the Government did not protect adequately employees from anti-union discrimination. Workers may lodge complaints of anti-union discrimination with the Ministry of Labor, which is authorized to order the reinstatement of employees discharged for union activities. There were no complaints of anti-union discrimination lodged with the Ministry of Labor during the year.

b. The Right to Organize and Bargain Collectively.—Unions have and exercise the right to bargain collectively. Labor laws mandate that workers must obtain Government permission to strike. Unions generally did not seek approval for a strike, but workers used the threat of a strike as a negotiating tactic. Strikes are prohibited if a labor dispute is under mediation or arbitration. If a settlement is not reached through mediation, the Ministry of Labor may refer the dispute to an industrial tribunal with agreement of both parties.

The tribunal is an independent arbitration panel of judges appointed by the Ministry of Labor. The decisions of the panel are legally binding. If only one party agrees, the Ministry of Labor refers the dispute to the Council of Ministers and then to Parliament. Labor law prohibits employers from dismissing a worker during a labor dispute. There are no special laws or exemptions from regular labor laws in export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, except in a state of emergency such as war or natural disaster. It generally was not practiced. Some foreign domestic servants, almost exclusively female, were subject to coercion and abuse and, in some cases, worked under conditions that amounted to forced labor (*see* Section 6.e.). The law does not prohibit specifically forced or compulsory labor by children; however, such practices were not known to occur.

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor is not a major problem, and the worst forms of child labor are virtually nonexistent. Labor law forbids children under the age of 16 from being employed, except as apprentices; however, there were reports of child labor. Children under the age of 18 may not work for more than 6 hours continuously between the hours of 8 p.m. and 6 a.m., or during weekends, religious celebrations, or national holidays. Provisions in the labor laws do not extend to children in the informal sector, which consists of agriculture, domestic labor, and small family businesses.

The law provides that employers who hire a child under the age of 16 must pay a fine ranging from $140 to $710 (100 to 500 dinars). The fine is doubled if the offense is repeated. The Government, however, provided little training on child labor to the 72 Ministry of Labor inspectors responsible for enforcing the relevant laws. When investigating child labor, inspectors generally acted to ameliorate the situation of the involved families when appropriate, including directing some adult family members toward job training programs. In the past, some government officials claimed that if children were barred from working, they would lose important income on which their families depend, and might turn to more serious activities, such as drug trafficking and prostitution, for income.

The Ministry of Labor's Child Labor Unit receives, investigates, and addresses child labor complaints (although it has no formal mechanism for doing so) and coordinates government action regarding child labor. Anecdotal evidence suggested that child labor, especially of street vendors, was more prevalent during the year than it was 10 years ago.

The law does not specifically prohibit forced or bonded labor by children; however, such practices were not known to occur (*see* Section 6.c.).

e. Acceptable Conditions of Work.—In January 2003, the Government increased the national minimum wage by 6.25 percent from $113 (80 dinars) to $121 (85 dinars) per month. The minimum wage applies to all workers except domestic servants, those working in small family businesses, and those in the agricultural sector. Inspectors from the Ministry of Labor enforced the minimum wage, but due to limited resources were unable to ensure 100 percent compliance. Although the increase exceeded the 2002 1.8 percent cost of living increase, the national minimum wage did not provide a decent standard of living for a worker and family. The Government estimated that the poverty level was at a monthly wage of approximately $47 (33 dinars) per month per capita.

The law requires overtime pay for hours worked in excess of the standard workweek, which generally is 48 hours. Workers may not work more than 10 hours in any continuous period or more than 60 hours of overtime per month. Employees are entitled to 1 day off per week. Labor law does not apply to small family businesses, domestic servants, and non-professional and non-technical workers in the agriculture sector. However, it does apply to citizens and noncitizen workers in other sectors. There is a separate civil service law. The law specifies a number of health and safety requirements for workers, which the Ministry of Labor is authorized to enforce. The law requires employers to report industrial accidents to the Ministry of Labor within 48 hours. Although employers are not required to report occupational diseases to the Ministry of Labor, the law stipulates that if the medical authority determines that a worker suffers an occupational disease as a result of his work, the employer is liable for compensation. The Ministry of Labor mediates disputed amounts of compensation in cases of occupational disease. Workers do not have a statutory right to remove themselves from hazardous conditions without risking the loss of their jobs.

According to the Ministry of Labor, there were approximately 143,000 registered non-citizen workers in the country. The majority of these were engaged in low-wage, low skill activities in the agriculture, construction, and industrial sectors. According to the Government, 13,000 of these workers were employed in the Qualified Industrial Zones (QIZs). Foreign workers in the QIZs were recruited through a vetted process involving registered recruitment agencies. The embassies for a number of the major source countries of this labor sent officers to the QIZ factories to track labor conditions.

Domestic servants have no legal redress for labor grievances and cannot sue in court for nonpayment of wages. Abuse of domestic servants, most of whom were foreign and many of whom were working without legal status in the country, was widespread. Imprisonment of maids occurred, and illegal confiscation of travel documents by employers was common. Victims, who feared losing their employment and being returned to their home country, generally did not report complaints to government officials. In 2003, the Ministry of Labor instituted a number of new requirements for employment agencies that provide Ministry oversight of FDWs' recruitment and employment. The Ministry actively closed down unlicensed recruiting agencies, but the lack of awareness among FDWs of their legal protections remained an impediment that the Ministry worked to address. In cooperation with the U.N. Development Fund for Women and several source country embassies, the Government also introduced a new standard work contract with greater protections that applied to all newly arriving FDWs since July 2003.

KUWAIT

Kuwait is a constitutional, hereditary emirate ruled by the Al-Sabah family who governs in consultation with prominent families and community leaders. The 1962 Constitution empowers the Emir with executive and legislative authority and permits dissolution of the elected National Assembly by decree. The July 2003 parliamentary elections were generally considered to be free and fair; however, there were some credible reports of the Government and the opposition buying votes. Only 15 percent of citizens have the right to vote. Following the 2003 elections, the Emir appointed a new prime minister whose authority the Crown Prince previously held. The Crown Prince appoints government members; however, the elected National Assembly has at times influenced or overturned government decisions. The Constitution provides for some judicial independence; however, the judiciary was subject to government influence. The Emir appoints all judges, and the Government must approve the renewal of most judicial appointments.

The national police, the Criminal Investigation Department (CID), and Kuwait State Security (KSS) are responsible for internal security under the supervision of civilian authorities in the Ministry of Interior (MOI). Civilian authorities generally maintained effective control of the security forces; however, there were some instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed a number of serious human rights abuses.

The country has a small, relatively open, market-based economy dominated by the oil industry and the government sector. Of a total population of approximately 2.645 million, an estimated 1.7 million are foreigners. Oil export revenues accounted for nearly half of the Gross Domestic Product (GDP). The government sector accounted for 87.5 percent of citizen employment while foreigners constituted more than 90 percent of the private sector workforce. According to international estimates, real GDP grew 2.3 percent in 2003 to $36.3 billion. Wages in the public sector, which employs 90 percent of citizens, did not increase with inflation. High citizen population growth coupled with a large influx of foreign workers has caused GDP per capita to decline in recent years. Domestic servants and unskilled workers often lived and worked in poor conditions.

The Government's human rights record remained poor, and serious problems remained. Citizens do not have the right to change their government. Some police and members of the security forces reportedly abused detainees during interrogation. Overcrowding in the prisons continued to be a significant problem. There were some reports of mistreatment of noncitizen prisoners. The judiciary was subject to government influence. The Government infringed on citizens' privacy rights in some areas. The Government placed some limits on freedom of speech and the press. The Government restricted freedom of assembly and association. The Government placed some limits on freedom of religion and freedom of movement. Violence and discrimination against women, especially noncitizens, continued to be a serious problem. Judicial authorities discriminated against non-citizens, especially foreign laborers. The legal status of tens of thousands of "bidoon" Arabs with residence ties but no documentation of their nationality remained unresolved. The Government restricted worker rights to organize and bargain collectively, and form unions. Domestic servants remained marginalized and lacked a system to protect their rights, monitor working conditions, and resolve labor disputes. Unskilled foreign workers continued to suffer from the lack of a minimum wage in the private sector, government failure

to enforce some Labor Law provisions effectively, and, at times, physical or sexual abuse at the hands of their employers. Some worked under conditions that constituted indentured servitude. Young boys, usually from South Asia, continued to be used as jockeys in camel races.

RESPECT FOR HUMAN RIGHTS

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

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

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

The fate of 572 Kuwaitis (including 29 bidoon) and 33 other residents taken prisoner during Iraq's occupation of the country in 1990–91 remained a highly emotional issue. The remains of more than 200 of these missing were identified by DNA tests from mass graves found in Iraq after the fall of the Saddam Hussein regime. The Tripartite Commission on Gulf War Prisoners of War (POWs) and Missing Persons (TPC) resumed functioning with Iraqi participation shortly after the end of major hostilities in Iraq.

c. Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, some police and members of the security forces reportedly abused detainees during interrogation. Reported mistreatment included torture and other physical abuse. Police and security forces were more likely to inflict such abuse on noncitizens, particularly non-Gulf Arabs and Asians, than on citizens. The Government stated that it investigated all allegations of abuse and punished at least some of the offenders; however, in most cases, the Government did not make public either the findings of its investigations or punishments it imposed.

In August, 14 Jihadi Islamists, detained on charges of recruiting youths to conduct attacks against coalition forces in Iraq, threatened to begin a hunger strike over claims that they had been coerced physically and verbally into making confessions. An Interior Ministry statement said that security officials "convinced [the detainees] such a step was not needed."

In August, three policemen were arrested for allegedly raping a runaway Asian maid at a police station and at another location. The maid's country's Embassy reported the incident to the police, and an investigation was ongoing at year's end.

In September, four freed Jihadists claimed to have confessed to crimes after being tortured by security officials. They were reportedly held in isolation and went on a hunger strike for 3 days. They further claimed that they ended their strike upon further threats of abuse. Government officials claimed that no reports of abuse relating to this case were filed by lawyers representing Jihadi suspects and stated that all inmates received fair and equal treatment. The Justice Minister publicly supported investigations into the allegations of abuse against Jihadi suspects.

In November 2003, three policemen reportedly raped a Filipina domestic servant while she was in police custody at a district police station. The Philippine Embassy filed a criminal case against the officers in December 2003 on behalf of the domestic servant, which was settled out of court this year.

In 2002, there were several allegations of police officials and security personnel abusing detainees while in police custody; however, there were no new developments in these cases during the year.

Defendants have the right to present evidence in court that they were mistreated during interrogation; however, the courts frequently dismissed abuse complaints because defendants were unable to provide physical evidence of abuse. Members of the security forces routinely did not reveal their identities during interrogation, complicating confirmation of abuse.

Prison conditions, generally met international standards, and the Government permitted visits by independent human rights observers. A new men's prison opened during the year, and prisoner transfers took place reducing previously severe overcrowding conditions. The new facility houses approximately 800 prisoners and meets all international standards for prisons.

In recent years, credible reports from former inmates and the National Assembly's Human Rights Defense Committee (HRDC) cited severe overcrowding (13–15 inmates per cell), lack of beds, poor sanitation, lack of clean toilet and washing facilities, poor ventilation, and inadequate containment of infectious diseases as common problems. The Government allowed the International Committee of the Red Cross (ICRC) access to all prisons and detention facilities (*see* Section 4).

There were some reports of mistreatment of non-citizen prisoners at the Central Prison. In recent years, it has been reported that some deportees at the deportation

facility in Shuwaikh were incarcerated for 6 months or longer pending deportation. Deportees reportedly often wait months for their former employers to cancel their residency and work permits or to provide their travel documents.

The Government held men and women in separate detention facilities. There were reports that prison conditions for non-citizens, including women, were less favorable than conditions for citizens. The Government held pretrial detainees separately from convicted prisoners. Juveniles were incarcerated separately from adults in a Juveniles Prison.

Inmates undergo a routine medical exam before they are incarcerated with other prisoners; however, a report by the HRDC in 2003 cited tuberculosis infection among inmates and staff as a major problem. During the year, four inmates were reportedly suffering from HIV/AIDS.

Drug-related offenders comprised a slight majority of the inmate population. The Government provided educational and rehabilitation programs for inmates, psychological counseling, and specialized courses for inmates suffering from drug and alcohol addiction. An Islamic educational facility under the supervision of the Ministry of Awqaf and Islamic Affairs with a capacity to accommodate 600 inmates and 3 other specialized learning facilities provided religious, computer, carpentry, and other practical skills training to inmates.

Local human rights monitors were allowed to visit prisons. The HRDC closely monitored prison conditions throughout the year, the ICRC, which maintains an office in the country, visited some detainees during the year.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. In general, police officers must obtain an arrest warrant from state prosecutors or a judge before making an arrest (*see* Section 1.f.), although in misdemeanor cases the arresting officer may issue them. There were some credible reports of police arresting and detaining foreigners without a warrant, based on accusation by a third party. There were no reported deaths in detention from beatings or severe mistreatment.

According to the penal code, those suspected of serious crimes may be held for up to 4 days without charge, during which security officers may prevent lawyers and family members from visiting them. In such cases, lawyers are permitted to attend legal proceedings, but are not allowed to have direct contact with their clients. If charges are filed, prosecutors may remand a suspect to detention for an additional 21 days. Prosecutors also may obtain court orders for further detention pending trial.

The police constitute a single national force under the purview of civilian authorities of the Ministry of Interior.

During the year, there were credible reports of police corruption and abuse of detainees during interrogation (*see* Section 1.c.). The Government relieved several security officials of their duties during 2003 as a result of credible allegations of abuse of detainees during interrogation. There were no reported Government efforts during the year to reform the police or security forces.

On October 18, the Criminal Court began trial of 12 citizens charged with involvement in the October 2002 attack that led to the death of a foreign marine on Failaka Island. The Government released 2 of the 12 suspects on bail. In June, the Criminal Court sentenced a citizen to death for shooting two foreign civilians, one fatally, in January near Camp Doha. The citizen appealed the verdict and, on October 28, the Court of Appeals commuted the death sentence to life in prison, affirmed by the Court of Cassation in December despite the Public Prosecutor's appeal to uphold the capital sentence. The Criminal Court sentenced three accomplices to varying terms in prison.

Of the approximately 3,700 persons serving sentences or being detained pending trial, approximately half were being held on security grounds, including some held for collaborating with Iraq during the occupation. There were approximately 500 foreigners including 28 bidoon, held in detention facilities. The Government did not return deportees to their countries of origin forcibly, allowing those who objected to remain in detention (*see* Section 2.d.).

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary and the right to a fair trial and states that "judges shall not be subject to any authority"; however, the Emir appoints all judges, and the renewal of judicial appointments is subject to government approval. Judges who are citizens have lifetime appointments; however, the majority of judges were non-citizens. Non-citizen judges hold 1- to 3-year renewable contracts, which undermine their independence. The Ministry of Justice may remove judges for cause, but rarely does so. Foreign residents involved in legal disputes with citizens frequently claimed that the courts showed bias in favor of citizens.

The secular court system tries both civil and criminal cases. The Court of Cassation ("Supreme Court") is the highest level of judicial appeal. There is also a specialized constitutional court, though its members are all senior judges from the civil judiciary. It has the authority to issue binding rulings concerning the constitutionality of laws and regulations. The court also rules in election disputes.

Sunni and Shi'a Muslims have recourse to their own independent courts for family law cases. Secular courts barred no groups from testifying and considered male and female testimonies equally; however, in the family courts, the testimony of a man was equal to the testimony of two women. By law, criminal trials are public unless a court or the Government decides that "maintenance of public order" or "preservation of public morals" necessitates a closed trial. There is no trial by jury.

Defendants have the right to confront their accusers and appeal verdicts. The Emir has the constitutional power to pardon or commute all sentences. Defendants in felony cases are required by law to be represented in court by legal counsel, which the courts provide in criminal cases. The Bar Association is obligated upon court request to appoint an attorney without charge for indigent defendants in civil, commercial, and criminal cases. Virtually all indigent criminal defendants asked for and received free counsel; however, in practice very few indigent civil and commercial plaintiffs requested this service.

Both defendants and prosecutors may appeal court verdicts to the High Court of Appeals, which may rule on whether the law was applied properly as well as on the guilt or innocence of the defendant. Decisions of the High Court of Appeals may be presented to the Court of Cassation, which conducts a limited, formal review of cases to determine only whether the law was applied properly.

There were no reports of political prisoners during the year.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution provides for individual privacy and the sanctity of the home, and the Government generally respected these rights in practice. The law generally requires police to obtain a warrant to search both public and private property; however, it permits searches without warrant if alcohol or narcotics are suspected on the premises or if police are in pursuit of a suspect fleeing the scene of a crime. A warrant may be obtained from the State Prosecutor or, in the case of searches of private property, from a judge (*see* Section 1.d.). The security forces occasionally monitored the activities of persons and their communications.

The law forbids marriage between Muslim women and non-Muslim men and requires male citizens serving in the military to obtain government approval to marry foreign nationals. In practice, the Government only offers its advice (*see* Section 2.c.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution (Articles 36 and 37) provides for freedom of speech and the press "in accordance with the conditions and in the circumstances defined by law"; however, the Government imposed some restrictions on these rights in practice. Journalists continued to practice self-censorship.

The Press Law prohibits the publication of any direct criticism of the Emir, official government communications with other states, and material that serves to "attack religions" or "incite people to commit crimes, create hatred, or spread dissension among the public." For violation of the law, Article 28 provides a maximum imprisonment of 6 months, raised to 1 year if repeated. Administrative punishments are also possible like confiscation, closure, and withdrawal of licenses without a court ruling. The criminal law also contains an array of charges which can be brought to bear, such as offense to religious sensibilities, public morality, and destroying the "basic convictions of the nation."

In May 2003, the Government presented a new draft press law that would severely restrict press freedom by giving the Government power to close printing presses, veto advertisements, suspend publication of newspapers, and subject articles to pre-publication censorship (a practice the Government banned in 1992). Local newspapers sharply criticized the proposed law. The law was reintroduced this year, but the National Assembly had not voted on it at years end.

In October, a new satellite television channel, Al-Rai, was launched. The private satellite channel, affiliated with its sister company Al-Rai Al-Aam newspaper, will expand television broadcasting in the country by introducing the first private news channel in the country.

The Government, through the Ministry of Information, threatened to impose penalties against individual publishers and editors believed to have criticized government policies or discussed subjects deemed offensive to Islam, tradition, or the State.

In June 2003, the Government filed charges against the publisher and editor in chief of a prominent newspaper for "challenging the authority of the Emir" after the editor stated publicly that unnamed members of the ruling family were interfering in the parliamentary election campaign (*see* Section 3). The case had not gone to court by year's end. In December 2003, police arrested, detained, and interrogated a citizen for producing and distributing an audiotape allegedly defaming the Prophet Mohammed's companions and was sentenced without being present at the trial to 10 years in jail in May.

The country has five Arabic and two English language daily newspapers. All newspapers are independent and privately owned.

The Government ended prepublication censorship in 1992. However, the Government still uses this form of censorship when it chooses, and journalists continued to practice self-censorship.

In September, 25 advertisement magazines were suspended due to violation of article 35 of the Press and Publication Law. The law gives the Cabinet the right to suspend newspapers for a period not to exceed 2 years or to revoke its license if it is proved that it serves the interests of a foreign state or organization or if what it publishes contradicts the national interest. Further, according to article 25, the Information Minister can subject periodical publications to pre-publishing censorship. Violators can be penalized with imprisonment of 1 to 3 years and fined between $10,200 and $17,000 (3,000 to 5,000 KD).

In 2002, the Government closed down the offices of and expelled the Arab satellite network Al-Jazeera on allegations of defaming the Government.

Publishers must obtain an operating license from the Ministry of Information to begin publishing a newspaper. There is no appeal to the courts if the license is not granted. Publishers may lose their license if their publications do not appear for 6 months, which prevents publishers from publishing sporadically. Individuals also must obtain permission from the Ministry of Information before publishing any printed material, including brochures and wall posters.

There were no specific reports of security forces subjecting journalists to violence or harassment during the year. In December 2003, security officials arrested a police officer for reportedly verbally and physically assaulting a journalist. In 2002, police confiscated film belonging to a press photographer covering a public disturbance. Police officials did not provide any explanations regarding the action taken toward the photographer.

Fawwaz Muhammad Al-Awadi Bessisso and Ibtisam Berto Sulaiman Al-Dakhil, two journalists, were sentenced to life in prison in 1991 because of their work with a newspaper that published under Iraqi occupation. The Government, which found the two guilty of cooperating with the authorities of the Iraqi occupation, deported one of the journalists to France in 2003 while the other reportedly departed the country.

The law requires jail terms for journalists who defame religion (*see* Section 2.c.). The law provides that any Muslim citizen may file criminal charges against an author if the citizen believes that the author has defamed Islam, the ruling family, or public morals. Often, citizens filed such charges for political reasons.

The Government owns and controls local radio and five television channels. Satellite dishes were widely available and operate without restriction. However, the Ministry of Information censored all books, films, videotapes, periodicals, and other imported publications deemed morally offensive. The Ministry of Information censored media for political content and did not grant licenses to political magazines. The Ministry of Information controlled the publication and distribution of all informational materials.

According to the latest statistics, there were an estimated 500,000 Internet users. The Government threatened to shut down private Internet cafes for noncompliance with new restrictive regulations in 2002, which required Internet service providers to block some political sites and those deemed immoral. Following the 2002 raid of 19 Internet cafes, the Ministry of Communications required cafe owners to obtain the names and civil identification numbers of customers and to submit the information to the Ministry upon request. The law provides for a $162,500 (50,000 dinar) bond.

The Constitution provides for freedom of opinion and of research; however, academic freedom is limited by self censorship, and academics were legally prohibited from criticism of the Emir or Islam.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. Public gatherings require government approval. The Constitution protects informal weekly social and political gatherings of men (diwaniyas). Most adult male citizens,

including the Emir, members of the Government, and members of the National Assembly hosted or attended diwaniyas to discuss current events. The diwaniya system provided an important forum for public debate on political, social, and economic issues. Women were not precluded from holding diwaniyas of their own; however, such diwaniyas were uncommon. Traditionally, women do not attend male diwaniyas, although a few diwaniyas are open to both sexes.

There were a few public demonstrations during the year. Demonstrators were orderly and the police did not interfere in most cases. In May, Islamic activists rallied to protest the sponsoring of a pop music concert for 'Star Academy' performers. During the same month, a gathering of citizens protested against environmental pollution and liberal citizens protested to express their dissatisfaction over the constraints imposed by the government on music concerts. On April 20, approximately 700 persons held a peaceful protest march denouncing the killings of HAMAS leaders Sheikh Ahmed Yassin and Abdel Aziz Rantissi. The Ministry of Interior tightly controlled the march and banned provocative banners and slogans.

The Constitution provides for freedom of association; however, the Government restricted this right in practice. The law prohibits associations from engaging in political activities. The Government banned political parties; however, several unofficial blocs existed and were active in the National Assembly. In 2003, candidates were allowed to run for elections only as individuals and not with a party (*see* Section 3); however, in many cases, a candidate's party affiliation was well known and may have influenced electoral performance.

The Government used its power to license as a means of political control. There are 54 licensed, official nongovernmental organizations (NGOs) in the country, including professional groups, a bar association, and scientific bodies. The Ministry licensed only one NGO during the year—the Kuwait Human Rights Society, an NGO with approximately 500 members, which waited 12 years before being approved for a license. There were 91 NGOs pending licensing by the Ministry; many have been waiting years for approval.

Licensed NGOs received government subsidies for their operating expenses, including travel and per diem expenses for participating in international conferences. The ministry has rejected license requests on the grounds that established NGOs already provide services similar to those proposed by the petitioners. Members of licensed NGOs must obtain permission from the ministry in order to attend international conferences (*see* Sections 2.d. and 4).

There are hundreds of unlicensed civic groups, clubs, and unofficial NGOs in the country. These unofficial associations do not receive government subsidies and have no legal status.

The Government reportedly did not shut any unlicensed NGOs or unregistered branches of Islamic charities during the year. Unlike in previous years, the Government did not remove any unlicensed street-side charity boxes during the year.

c. Freedom of Religion.—The Constitution provides for freedom of religion; however, the Government placed some limits on this right in practice. The Constitution also provides that the State protect the freedom to practice religion in accordance with established customs, provided that it does not conflict with public policy or morals. The Constitution states that Islam is the state religion and that Shari'a (Islamic Law) is "a main source of legislation."

The Ministry of Awqaf and Islamic Affairs has official responsibility for overseeing religious groups. Officially recognized churches must deal with a variety of government entities, including the Ministry of Social Affairs and Labor (for visas and residence permits for pastors and other staff) and the Municipality (for building permits). While there reportedly was no official government "list" of recognized churches, seven Christian churches have at least some type of official recognition that enables them to operate openly. These seven churches (Roman Catholic, Anglican, National Evangelical, Greek Orthodox, Armenian Orthodox, Coptic Orthodox, Greek Catholic) have open "files" at the Ministry of Social Affairs and Labor, allowing them to bring in staff. In October 2003, the Government closed the National Evangelical Church's file, reportedly due to its alleged failure to comply with the National Manpower Support Law by employing the requisite number of citizens of the country. At year's end, the Government reinstated its open file status.

By tradition, three churches benefit from full government recognition and are allowed to operate compounds officially designated as churches. These are the Catholic Church (which includes two separate churches, the Latin Catholic and the Maronite), the Anglican Church, and the National Evangelical Church. However, there are quotas on the number of clergy and staff that each church can bring into the country.

There were reports in previous years of at least two groups that applied for permission to build their own churches; however, the Government has yet to respond to their requests.

The Government continued to discriminate against the Shi'a minority. There are approximately 300,000 Shi'a citizens (one third of Kuwaiti citizens) and approximately 100,000 Shi'a non-citizen residents. Shi'a remained disadvantaged in the provision of mosques, access to Shi'a religious education, and representation in upper levels of Government. There are approximately 30 to 40 Shi'a mosques and approximately 1,200 Sunni mosques. There is no independent Shi'a seminary. Shi'a must travel to Iran or Iraq for clerical training. Five Shi'a were elected to the 50-seat National Assembly in July 2003, compared to 6 Shi'a in the previous National Assembly. The Government allows Shi'a to follow their own jurisprudence in matters of personal status and family law at the first-instance and appellate levels. In October 2003, the Government approved a long-standing Shi'a request to establish a Shi'a Court of Cassation to handle Shi'a personal status and family law cases.

Shi'a were free to worship without government interference, and the overall situation for Shi'a improved somewhat during the period covered by this report. Since 2000, the Government has granted licenses for and has approved the construction four new Shi'a mosques. All four mosques were still reportedly under construction.

Shi'a leaders have complained that Shi'a who aspire to serve as imams are forced to seek appropriate training and education abroad due to the lack of Shi'a jurisprudence courses at Kuwait University's College of Islamic Law, which only offers Sunni jurisprudence. The Ministry of Education reviewed a Shi'a proposal to establish a private college to train Shi'a clerics within the country; however, at year's end, no action had been taken on the proposal.

The country's Shi'a population has been allowed more public celebrations of their religious traditions. During the year, Shi'a were permitted for the first time to publicly reenact the Battle of Karbala, and Shi'a clerics were granted television airtime during the Ashoura day celebration.

Members of religions not sanctioned in the Koran, such as Sikhs, Hindus, Baha'is and Buddhists, are not permitted to build official places of worship as these religions lack legal status. However, they are allowed to worship privately in their homes without government interference.

While some discrimination based on religion reportedly occurred on a personal level, most observers agreed that it was not widespread. There was a perception among some domestic employees and other members of the unskilled labor force, particularly Asian nationals, that they would receive better treatment from employers as well as society as a whole if they converted to Islam.

There were no reports of anti-Semitic activity on behalf of the Government. Examples of unofficial anti-Semitic commentary from the media and from some mosque preachers did surface. The Government has taken no action to enact laws relating to the protection of the rights to religious freedom of Jews, although there is no significant Jewish community present. There have been instances of anti-Semitic rhetoric in government-sponsored education curricula, specifically in reference to the Arab-Israeli conflict.

The Government prohibits proselytizing to Muslims; however, the Government permits Christian churches to serve non-Muslim congregations. The law prohibits organized religious education other than Islam; however, the Government did not enforce this law rigidly, and such education took place. Although informal religious instruction occurred inside private homes and on church compounds without government interference, there were credible reports that government inspectors periodically visited public and private schools outside church compounds to ensure that no religious teaching other than Islam took place. There were also credible reports that government inspectors periodically observed church worship services to monitor the content of information for possible anti-Government or proselytizing rhetoric.

The Islamic Presentation Committee (IPC), under the authority of the Ministry of Awqaf and Islamic Affairs, actively encouraged proselytizing to non-Muslims.

The law prohibits the naturalization of non-Muslims; however, citizens who were Christians before 1980 (and children born to families of such citizens since that date) were allowed to transmit their citizenship to their children.

By law, a non-Muslim man must convert to Islam when he marries a Muslim woman if the marriage is to be legal in the country. The law forbids marriage between Muslim women and non Muslim men (*see* Section 1.f.). By law, a non-Muslim woman does not have to convert to Islam to marry a Muslim man, but it is to her advantage to do so. In practice, many non-Muslim women faced tremendous economic and societal pressure to convert. Failure to convert may mean that, should the couple later divorce, the Muslim father would be granted custody of children, even those who most likely would have been left in the mother's custody if she were

Muslim. Failure to convert may also mean that as a non-Muslim woman, she would not be eligible to inherit her husband's property.

A few Muslim converts to Christianity reported harassment and discrimination by police and employers, including termination of employment, repeated summonses to police stations for questioning, verbal abuse, police monitoring of their activities, and imposition of fines without due process.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution does not provide for the rights of freedom of movement within the country, freedom of foreign travel, or freedom to emigrate. The Government placed some limits on freedom of movement in practice. Citizens have the right to travel freely within the country and to change their workplace as desired. Unmarried women must be 21 years of age or older to obtain a passport and travel abroad without permission of a male relative. Married women must obtain their husbands' permission to apply for a passport. A married woman with a passport does not need her husband's permission to travel, but he may prevent her departure from the country by placing a 24-hour travel ban on her through immigration authorities. After this 24-hour period, a court order is required if the husband still wishes to prevent his wife from leaving the country. In practice, however, many travel bans were issued without court order, effectively preventing citizens (and foreigners) from departing.

All minor children under 21 years of age require their father's permission to travel outside the country. There were reports of citizen fathers and husbands confiscating their children's and wives' travel documents to prevent them from departing.

The Constitution prohibits the deportation or forced exile of citizens, and there were no reports of such practices during the year. The penal code stipulates that noncitizens convicted of felonies must be deported after finishing their jail terms, and in certain circumstances, citizens may have their citizenship revoked. This provision includes citizens sentenced for felonies during the first 10 years of attaining citizenship, citizens discharged from a public job for "acts against integrity" during the first 10 years of attaining citizenship, and citizens who take up residence in a foreign country and join an authority that is designed to undermine the country.

Citizens were largely free to emigrate and to return. Security forces occasionally set up checkpoints to detain individuals for immigration purposes and to apprehend undocumented aliens.

The law permits the Government to place a travel ban on any citizen or foreigner who has a legal case pending before the courts. The law also permits any citizen to petition authorities to place a travel ban against any other person suspected of violating local law. In practice, this has resulted in many citizens and foreigners being prevented from departing the country without investigation or a legal case being brought before a local court. This practice has become less prevalent in recent years, but it still persists. Although illegal, many citizen employers routinely confiscate the passports of foreign employees, which forces them to remain in the country against their will. There does not appear to be any concerted government effort to prevent employers from engaging in this practice.

Members of licensed NGOs must obtain government approval to attend international conferences as official NGO representatives (*see* Sections 2.b. and 4). The Government severely restricted the ability of its bidoon population to travel abroad (*see* Section 5). However, the Government permitted some bidoon to travel to Saudi Arabia during the year for the annual Hajj pilgrimage.

The Government permitted the ICRC to verify if deportees objected to returning to their countries of origin; it detained those with objections until they either changed their minds or made alternative arrangements to travel to another country.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government did not grant refugee status or asylum. The Constitution prohibits the extradition of political refugees. The Government stated that it did not deport persons who claimed to fear persecution in their home countries; however, it often kept such persons in detention rather than grant them permission to live and work in the country. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

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

Citizens do not have the right to change their government. The Constitution provides that the elected National Assembly has a limited role in approving the Emir's choice of Crown Prince (the future Emir). If the Assembly rejects the Emir's nominee, the Emir then submits three names from which the Assembly must choose the new Crown Prince. The only citizens who have the right to vote and seek election to the National Assembly are males age 21 and over, who have been citizens for at least 20 years, and are not members of the armed forces, police, or other uniformed personnel of the Ministry of Interior.

Under the Constitution, the Emir holds executive power and shares legislative power with an elected National Assembly. The Emir appoints the prime minister, who presides over a 16-member Cabinet (Council of Ministers), who he chooses in consultation with the Emir. In accordance with the practice of the ruling family (but not specifically the Constitution), the prime minister always has been the Crown Prince; however, in an unprecedented development in July 2003, the Emir named one of his brothers, who was then serving as Foreign Minister, as Prime Minister who promptly formed a new Cabinet.

The Constitution empowers the Emir to suspend its provisions and to rule by decree. The Constitution provides that cabinet members sit in the National Assembly and vote on legislation. At least one member of the Cabinet must be an elected member of the National Assembly.

There are 50 elected National Assembly members and 15 cabinet members appointed by the Emir who sit as ex-officio members. Members of Parliament (MPs) serve 4-year terms, and the most recent National Assembly elections were held in July 2003. The Government banned political parties; however, several well-organized and unofficial blocs, acting much like political parties, existed and were active in the National Assembly. Because of the ban on political parties, National Assembly candidates must nominate themselves as individuals and may run for election in any of the country's 25 constituencies. The top two finishers in each constituency are elected in single-round balloting.

The Constitution provides that the National Assembly can overturn the Emir's decrees, but only those made when the National Assembly is not in session. The National Assembly exercised this authority in previous years in some cases; however, the National Assembly did not amend any of the Emir's proposals during the year.

Members regularly require ministers to appear before the full National Assembly for formal inquiries, known as "grillings," when MPs are dissatisfied with their or the ministry's performance. On occasion, pressure exerted by the National Assembly, including through votes of no confidence, has led to the resignation or removal of ministers.

The July 2003 National Assembly elections were generally free and fair, although there were some credible reports of government and opposition vote buying, illegal and unevenly held tribal primaries (by-elections), ballot box tampering in some constituencies, and lax enforcement of some election laws. Recounts were ordered and undertaken in 2 of the 25 electoral districts due to allegations of vote fraud. During 2003, candidates from several constituencies filed court petitions challenging the July 2003 National Assembly election results on allegations of ballot box tampering. In December 2003, the Constitutional Court dismissed these petitions.

Women continued to be denied the right to vote and to run for office; they had little opportunity to influence the Government. There were no women in the National Assembly and no women in the Cabinet. Women held some relatively senior nonpolitical positions within some ministries.

The new prime minister appointed one minority Shi'a member to the 16-member Cabinet as the Minister of Information. Of 50 elected National Assembly members, 5 were Shi'a.

Several tribes conducted illegal primaries (by-elections) to select candidates for participation in the National Assembly elections held in July 2003. Such primaries are limited to tribe members and thus do not include all eligible voters in a given electoral constituency. Some Shi'a claimed that if they had held such primaries as other groups did (in violation of election laws), they would have gained more seats in the National Assembly. In December 2003, the National Assembly's Legislative and Legal Affairs Committee approved requests from the Public Prosecutor to lift the parliamentary immunity of four parliamentarians suspected of participation in illegal tribal primaries held before the July elections.

Allegations of corruption on the national level arose during the year. In December, the Deputy Prime Minister faced various charges of corruption including mismanagement and negligence resulting in the loss of $260 million (77 million KD)

to the Kuwait Municipality. The government official was not found guilty of wrongdoing during a grilling by Ministers of Parliament.

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

The Government permitted the existence of NGOs; however, it continued to deny licenses to some NGOs. The only local human rights NGO is the Kuwait Human Rights Society (KHRS), which was licensed during the year as an officially recognized NGO. The KHRS produces an annual report on human rights in the country, publishes a quarterly magazine, and meets some senior government officials occasionally. It reportedly paid for the legal fees and the return travel of an abused Indian maid in 2002, who had been severely beaten by her employer in a high-profile domestic abuse case.

The Government permitted international human rights organizations to visit the country and to establish offices. Several organizations conducted fieldwork and reported good communication with and reasonable cooperation from the Government.

The Government has cooperated fully in the work of the U.N. Special Rapporteurs for Iran and Iraq and the high-level representative of the Secretary General on the issue of its citizens missing in Iraq since the end of the Gulf War.

The Government has not yet submitted the remaining two of eight conventions from the International Labor Organization's (ILO) Declaration of Basic Rights at Work to the National Assembly for ratification (*see* Section 6).

The National Assembly has an active Human Rights Defense Committee, which took testimony in 2003 from individuals regarding abuses, investigated conditions in prisons and nursing homes, and made nonbinding recommendations for redress. Despite its designation as an advisory body, the HRDC has shown that, in practice, it is able to mobilize government agencies to address significant human rights problems.

During the year, the children of stateless bidoon were granted free education in the school system, through the Ministry of Education. This followed efforts in 2003 by the HRDC, which focused particular attention on the issue of access to public education for bidoon children. HRDC members questioned the Minister of Education before the National Assembly on the issue. The committee also issued a report critical of Central Prison conditions during the year. It did not issue a human rights report during the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination based on race, national origin, language, and religion; however, in practice, the Government did not uniformly or consistently enforce laws against discrimination. Many laws and regulations discriminated against women and non-citizens. There were no specific reports of any official or societal discrimination against persons with HIV/AIDS; however, the Government tightly controlled HIV testing, and foreign workers who have HIV/AIDS were often deported.

Women.—Violence against women continued to be a serious and overlooked problem. Certain provisions of the penal code reduce or eliminate penalties for violent crimes committed by men against women. Each of the country's 54 police stations reportedly received weekly complaints of spousal abuse, approximately 60 percent of which involved spousal abuse of non-citizen women. The police and the courts generally sought to resolve family disputes informally, but they referred a few serious cases to the Ministry of Health.

The courts have found husbands guilty of spousal abuse; however, most domestic abuse cases are not brought to court, and abusive husbands, if convicted, rarely face severe penalties. Typically, husbands accused of domestic abuse must pay a nominal fine and sign a pledge of good conduct. Police officials typically regard domestic violence as a private family affair and are reluctant to bring such cases to the attention of higher investigative authorities. In February, police arrested a man for allegedly killing his wife in their home during a domestic dispute.

There are no shelters or hotlines for victims of domestic violence. Many non-citizen women married to citizen men reported domestic abuse and inaction or discrimination by police during the year. By law, a victim of domestic violence may file a complaint with the police and request that formal charges be brought against the abuser. In practice, however, even with documented evidence of the abuse (such as hospital reports, eyewitness accounts, and social worker testimony), police officials rarely take into custody perpetrators of domestic violence. An abused woman may petition for divorce based on injury, but the law provides no clear legal standard as to what constitutes injury, and a woman must provide at least two male witnesses (or a male witness and two female witnesses) to attest to the injury com-

mitted. There were some reports of individuals bribing police officials to ignore charges of domestic abuse. The law prohibits rape and provides that citizens found guilty of crimes that violate moral integrity, such as rape or incest, are forbidden from holding public jobs.

In October, a Kuwaiti man was arrested for assaulting his wife. He was still beating his wife when police intervened.

Rape and sexual assault remained serious problems, particularly for domestic servants and other foreign workers. Local newspapers highlighted dozens of rape and sexual assault incidents during the year, mostly involving female expatriates.

The police occasionally arrested rapists, and several were tried and convicted during the year; however, laws against rape were not always enforced effectively. In October, police arrested five men, three Kuwaitis and two citizens of the Dominican Republic, for allegedly kidnapping and raping a Filipina maid in September. In August, a female member of the U.S. Army accused an Egyptian man of raping her inside her hotel room in Kuwait City in August. At years end, the case was ongoing. In March, the Appeals Court upheld a verdict of the Criminal Court sentencing a non-Kuwaiti man to life imprisonment for the 2002 premeditated murder and attempted rape of a woman.

In December 2003, four Defense Ministry cadets were arrested for raping a female citizen of minor age. In December 2003, a citizen teacher reportedly raped an 11-year-old male pupil in a school bathroom. In November 2003, the Public Prosecutor interrogated several police officers accused of raping a Filipina housemaid in a police station. The suspects were detained at year's end pending investigation.

In January 2003, the Court of Appeals upheld a Criminal Court verdict sentencing a Bangladeshi man to death for kidnapping, raping, detaining, and forcing two foreign women into prostitution in Mangaf district. Also in January 2003, the court upheld a 15-year prison sentence handed down to a police officer who kidnapped and raped a woman. In previous years, the Government imposed severe penalties, including the death sentence, for particularly egregious rape cases. In April, two Saudis and one Kuwaiti were sentenced to death for raping and killing a girl.

The physical or sexual abuse of foreign women working as domestic servants was a pervasive problem. Some employers physically abused foreign women working as domestic servants, and, despite economic and social difficulties for a domestic servant who lodged a complaint, there were continuing reports of the rape of such women by male employers. The local press devoted considerable attention to the problem, and both the police and the courts have taken action against employers when presented with evidence of serious abuse. Some rapes resulted in pregnancies, and there were reports of illegal abortions. Occasionally, domestic workers were charged with assaulting their employers; in such cases, the workers claimed that they acted in response to physical abuse or poor working conditions. There also were dozens of reports of domestic workers allegedly committing or attempting to commit suicide because of desperation over poor working conditions or abuse.

In February, an Asian maid accused six citizens, four men and two women, of assaulting her because of her refusal to withdraw a rape case she filed against her sponsor's son.

In July, the Court of Appeals refrained from passing a sentence against a man, but ordered him to sign a pledge of good conduct for a year for raping his housemaid. In June, the Criminal Court found him guilty but did not sentence him because of "family circumstances" and also because he had no past criminal record.

In October, an Asian maid committed suicide by hanging herself with a rope inside her sponsor's house. In August, an Indonesian maid jumped to her death from the balcony of her sponsor's apartment. Another Asian maid, in August, jumped from the second floor of her sponsor's villa and was taken to a local hospital.

Human rights activists have characterized sexual harassment against women in the workplace as a pervasive but unreported problem. In October 10 adolescent males in the fifth grade were expelled from school for allegedly sexually harassing their female teacher.

Foreign-born domestic employees have the right to sue their employers for abuse, but few do so, fearing judicial bias and deportation. Local news sources reported a few criminal cases filed against abusive employers by domestics, but informal out-of-court conciliation was attempted in most cases, usually with the assistance of the domestic's source country embassy. The Government deported many runaway domestics. A specialized police facility and a government domestic labor office investigated and resolved some complaints. In April 2003, the Government licensed a new union, the Kuwait Union of Domestic Labor Offices, charged with monitoring the activities of labor recruitment agencies and raising awareness among employers on the treatment of domestics. During 2003, the union distributed educational bro-

chures to both employers and newly arrived domestics on their rights and obligations.

In August, the Emir's private plane was used twice to repatriate hundreds of stranded Sri Lankan citizens who had suffered abuse while in the country. Hundreds of Filipina maids who managed to escape from their sponsors' homes also were repatriated to Manila after seeking refuge within the Philippine Embassy. During the year, nearly 200 Indonesian domestic workers were repatriated via Kuwait Airways charter flights with the assistance of the Foreign and Interior Ministries. The Ministry of Interior sometimes paid for return airline tickets for runaway or abused domestic servants if their employers refused to provide tickets. Some NGOs, such as the Kuwait Human Rights Society and the Kuwait Friendship Society, also have paid for return airline tickets or legal fees on behalf of runaway or abused domestics. Employers often accused their runaway domestics of theft or other crimes to avoid furnishing tickets. In such cases, the domestics often were deported without owed compensation. The Ministry of Interior blacklisted some delinquent employers, preventing them from sponsoring additional domestics. In practice, some blacklisted employers were able to hire new domestics due to their connections with police officials or other authorities.

The Government prosecuted some employers accused of abusing their foreign-born domestic servants. In March 2003, the High Court of Appeals overturned the acquittal by the Criminal Court of a female citizen charged with beating and burning her maid with an iron bar by fining her approximately $3,400 (1,000 KD) and ordering her to sign a pledge of good conduct. In practice, however, enforcement of such pledges appears to be weak. In February 2003, police detained a male citizen for allegedly raping his housemaid repeatedly over a period of 1 year. The maid took shelter in her source country embassy during the year.

There were a number of cases still pending resolution in which foreign-born domestic employees were tortured, severely beaten, or died at the hands of their employers. There were no developments in the 2002 case of an Indian maid who was beaten severely and tortured.

Runaway servants, including many women alleging physical or sexual abuse, often seek shelter at their country's embassy pending repatriation or a change in employer (*see* Sections 6.c. and 6.e.). Of an estimated 500,000 domestic servants in the country, approximately 1,000 women were reported to be in informal shelters run by source-country embassies during the year. Many runaway domestics remained in embassy shelters for months pending new employment or departure from the country. The Government does not prevent runaway domestics from seeking shelter in their host country embassies. There are no official shelters for victims of domestic violence or abuse in Kuwait. There are a few unofficial homes for abused children nominally run by the Ministry of Social Affairs and Labor.

Some unemployed, runaway foreign domestic workers were susceptible to recruitment into prostitution. In January 2003, a Bangladeshi man allegedly detained three Asian women inside an apartment in a remote district and forced them into prostitution. In May 2003, a Bangladeshi man and two accomplices allegedly kidnapped two Asian women, detained them inside an apartment, and forced them into prostitution. Police arrested the man in May 2003. The police actively enforced laws against pandering and prostitution, with arrests reported almost every week. Prostitutes generally were deported to their countries of origin. In recent years, procurers received stiff jail terms. There were several reports during the year of procurers kidnapping maids off the street and forcing them into prostitution.

"Honor crimes" are prohibited; however, some provisions of the penal code reduce penalties for these crimes.

In 2002, the High Court of Appeals upheld the original 2002 Criminal Court verdict sentencing a woman to life imprisonment and her three male accomplices to death for a 2002 "honor" killing of a 6-year-old girl. The citizens filed an appeal during the year, and the Supreme Court of Appeals began considering their appeal in December 2003.

There were some reports of women, mainly from Asia, who were trafficked into the country into situations of coerced labor, where they often suffered from physical abuse or other extreme working conditions. Some female domestic servants, who ran away from their employers due to abuse or poor working conditions, were recruited or kidnapped into prostitution.

Women continued to experience legal, economic, and social discrimination. Women do not have the right to vote (*see* Section 3) or run for election to the National Assembly. Their testimony is worth half that of a man's in proceedings before the family courts (*see* Section 1.e.). Married women require their husbands' permission to obtain a passport (*see* Section 2.d.). The Government forbids marriage between Muslim women and non Muslim men (*see* Sections 1.f. and 2.c.). Inheritance is governed

by Islamic law, which differs according to the branch of Islam. In the absence of a direct male heir, Shi'a women may inherit all property, while Sunni women inherit only a portion, with the balance divided among brothers, uncles, and male cousins of the deceased. Citizen families (a "family" must always include a male) are entitled to receive a plot of land and an approximately $238,000 (70,000 KD) interest-free government loan ("housing allowance") through the Credit and Savings Bank to purchase a house. The Government registers the house in the names of both the husband and the wife. However, in case of divorce, a female citizen loses her rights to the house regardless of any payments she may have made on the loan. She may continue to reside in the house if she has custody of any minor children resulting from the marriage, but she must move once the children reach age 18. A divorced single mother and her minor children or a female citizen married to a foreign national cannot, by law, qualify for the government housing allowance.

The Government makes family entitlement payments approximately $170 (50 KD) per child up to the seventh child to the employed parent, almost always the father. In divorce cases, the Government continues to provide these payments to the divorced father, who is expected by law and custom to provide for his children, although custody of minor children is almost always awarded to the mother.

The law provides for female "remuneration equal to that of a man provided she does the same work." This provision often was not generally respected in practice. The law prohibits women from working in "dangerous industries" and trades "harmful" to health. Educated women maintained that the conservative nature of society limited career opportunities. An estimated 33 percent of female citizens of working age were employed. Many women were employed as professors, attorneys, physicians, bankers, engineers, and businesswomen. A few women have been appointed to senior positions in the Ministry of Education, Ministry of Planning, and the state-owned Kuwait Petroleum Corporation. There was one female ambassador and two female undersecretaries; however, there were no female judges or prosecutors. During 2003, the Government appointed and assigned female diplomats overseas to expand the public position of women.

There is no specific law that addresses sexual harassment; however, serious problems remained.

The law discriminates against female citizens married to foreign men. Unlike male citizens, such women are not entitled to government housing subsidies. The law also requires women to pay residence fees for their husbands and does not recognize marriage as the basis for granting residency to foreign-born husbands. Instead, the law grants residency only if the husband is employed. By contrast, male citizens married to foreign-born women do not have to pay residency fees for their spouses, and their spouses' right to residency derives from marriage.

Many classes at Kuwait University are segregated by gender. Construction is underway on a separate campus for female students, who comprise approximately 70 percent of the total student body at the university.

Polygyny is legal; however, it is more common among tribal elements of the population.

Several organizations followed women's issues, among the most active of which were the Women's Cultural and Social Society, the Women's Affairs Committee, Kuwait Economic Society, Kuwait Human Rights Society, and the Social Reform Society Women's Committee.

Children.—The Government is generally committed to the rights and welfare of citizen children. Citizen boys and girls receive a free education through the university level, often including advanced degrees and the opportunity to study abroad. Primary education is universal and compulsory. UNICEF estimates net primary enrollment at 66 percent. The Government provides free health care and a variety of other services to citizen children; non-citizen children must pay a small fee to be admitted into a health facility and pay additional fees for specialized care.

Citizen parents also receive a monthly government allowance of approximately $170 (50 KD) for each child up to the seventh child. The Government makes these payments to the employed parent, usually the father, and continues to provide these payments to the father even if the parents are divorced and the father does not have custody of the children. There is no legal requirement governing its use and anecdotal evidence suggests that many non-custodial fathers were not using it to contribute to the care and welfare of their children. There did not appear to be any monitoring of how the funds are spent.

There was no societal pattern of abuse; however, there were some cases of young children raped by men or gangs of youths. In September, an Army first lieutenant allegedly kidnapped and molested a 10-year old boy. The suspect has reportedly confessed to the crime. In April, the Court of Cassation, the Supreme Court of Appeals,

upheld a death sentence for two Saudi brothers and a Kuwaiti for the 2002 kidnapping, rape, and murder of a 6-year-old girl. In December 2003, the Public Prosecutor referred to the Criminal Court the case of a citizen teacher accused of raping an 11-year-old boy.

In February 2003, a police officer allegedly raped a 9-year-old male citizen. In June 2003, the Criminal Court sentenced a male citizen to death for kidnapping, raping, and murdering a Pakistani child. The citizen appealed the verdict, and the High Court of Appeals began hearing testimony in December 2003. There were incidents of arrests in some child abuse cases but no reported convictions.

There are a few unofficial homes for abused children nominally run by the Ministry of Social Affairs and Labor. There are credible reports that some caretakers abuse some of these children while they are living in these homes, or that they are used for prostitution. The conditions in these homes are reportedly very poor.

Some tribal groups continued to marry girls under age 17.

There were credible reports of underage South Asian and Southeast Asian girls working as domestic servants.

Young boys, reportedly from South Asia and Africa, were trafficked into the country to be used as camel jockeys. Many of the jockeys came to the country from racing during the season in other Gulf nations. Some boys as young as 5 or 6 years old were reportedly used as camel jockeys. In response to growing criticism, the Government mandated in 2003 that all camel jockeys must be at least 18 years of age. In early part of the year, camel races continued to take place involving young boys approximately 5 or 6 years of age. In March, the Ministry of Social Affairs and Labor issued a decree banning the employment of children under the age of 18 and placing a minimum weight regulation of 45kgs (approximately 100 lbs). There was no indication that underage children were used as camel jockeys after April.

There were no reported cases of sexual exploitation of youths used as camel jockeys.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, although laws against slavery, prostitution, forced labor, coercion, kidnapping, and other acts can be used collectively to prosecute traffickers. The Government has ratified some international conventions that commit it to apply these laws. The country is a destination for internationally trafficked men, women, and children. The problem principally is one of foreign workers, mostly female, coming to work as domestic servants but being abused by their employers or coerced into situations of debt bondage or involuntary servitude.

During the year, the Government highlighted its efforts to combat trafficking and improve protections for female workers. In January, high-level government officials, labor representatives, and NGOs participated in the first-ever public trafficking in person (TIP) seminar held in the country to discuss the treatment of domestic servants and propose solutions to improve protection of their rights and welfare. The Interior Ministry (MOI) required all Kuwaiti sponsors to sign a standardized contract with the labor recruitment agency, outlining the rights and responsibilities of both parties. MOI officials also claim that the Government has revoked the licenses of 556 poor performing and abusive labor recruitment agencies since 1993. There are 514 licensed agencies currently operating.

In at least a dozen incidents reported by local newspapers during 2003, procurers kidnapped domestic servants and other foreign-born female workers off the street and forced them into prostitution. Most victims do not report these crimes. During 2003, there were several reported incidents of police raiding prostitution rings and arresting both organizers and prostitutes. In February 2003, the Criminal Court fined an expatriate woman approximately $10,200 (3,000 KD) and sentenced her to 3 years in jail, followed by deportation, for running a brothel and forcing other expatriate women into prostitution. In March 2003, police arrested six men and seven foreign prostitutes in a 2-hour crackdown in Farwaniya district. In April 2003, police raided three prostitution "houses" and arrested 10 Asian female prostitutes in an outlying district, Jleeb Al-Shuyoukh, populated mainly by expatriate workers.

In January 2003, the High Court of Appeals upheld the verdict of the Criminal Court and sentenced a Bangladeshi man to death for kidnapping, raping, and forcing two foreign women into prostitution. The man reportedly bought one of the women for $850 (250 KD) from another unidentified man. In February 2003, the Court of Appeals upheld the verdict of the Criminal Court and sentenced a woman to 3 years in prison and imposed a $10,200 (3,000 KD) fine for running a prostitution ring and holding several foreign women captive. In 2002, a foreign development agency report on female foreign workers in the country revealed that in most trafficking cases, local manpower agents or visa traders had promised women domestic work. However, upon arrival, numerous migrants were expected to provide sexual

services in addition to their domestic duties, and some were forced to engage in prostitution exclusively.

The Government took some measures to help combat trafficking. A conciliation center attached to a district police station processed some complaints filed by domestic servants or their source country embassies against abusive or exploitative employers. A government domestic labor office, under the authority of the Ministry of Interior, investigated and resolved some labor complaints. The Government formed an inter ministerial committee of representatives from the Ministry of Foreign Affairs, Ministry of Interior, and Ministry of Social Affairs and Labor to discuss strategies for protecting the rights of domestic employees. The committee held its first meeting in May 2003. In April 2003, the Government approved the establishment of a new association, the Kuwait Union of Domestic Labor Offices, to monitor more closely the activities of domestic labor recruitment agencies in the country and to educate employers and domestics about their rights. At year's end, 50 labor recruitment agencies, reportedly representing about 70 percent of all domestic servants in the country, were members of the association. There were no specific reports of government or police involvement in trafficking during the period covered by this report.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities and imposes penalties against employers who refrain from hiring persons with disabilities without reasonable cause. There was no reported discrimination against persons with disabilities in employment, education, or in the provision of other state services. In 1996, the National Assembly passed legislation on the rights of persons with disabilities. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice The Government paid stipends to citizens with disabilities, which covered transportation, housing, job training, and social welfare. There were no similar provisions for non-citizens.

National/Racial/Ethnic Minorities.—The legal status of tens of thousands of bidoon residents remained unresolved. The bidoon (an Arabic term meaning "without" as in "without citizenship") are Arabs who have residency ties to the country, some persisting for generations and some for briefer periods, but who either lack or have failed to produce documentation of their nationality. The exact number of bidoon residents is unknown, but has been estimated at upwards of 100,000. Since the mid-1980s, the Government has actively discriminated against the bidoon in areas such as education, medical care, employment and mobility.

In a positive change from the past, this year, the Ministry of Education approved free education for all children of bidoon parents. This change took effect with the September opening of the school year. During the year, it was also announced that bidoon would receive free health care starting at the beginning of 2005. Reportedly, the Health Ministry will no longer ask for fees from bidoon. The Waqf Health Fund, a partially government-funded program, has signed contracts with several insurance companies to pay the fees for bidoon health services.

Although the Government eliminated the bidoon from the census rolls and discontinued their access to most government jobs, some bidoon work in the armed forces and are now being accepted in the institutions of the Public Authority for Applied Education and Training. The Government has denied the bidoon official documents such as birth certificates, marriage certificates, civil identification, and drivers' licenses, which made it difficult for many unregistered bidoon, particularly younger bidoon, to find employment. The Government does not issue travel documents to bidoon routinely, and, if bidoon travel abroad without documentation, they risk being barred from returning to the country unless they receive advance permission from immigration authorities. The children of male bidoon inherit their father's undetermined legal status, even if born to citizen mothers.

Only bidoon registered by June 27, 2000, could begin the process under which they could be documented as citizens. According to this law, bidoon who were able to prove sufficient ties to the country (that is, their presence, or the presence of their forebears, in the country prior to 1965) were eligible to apply for citizenship directly. The Government maintained that at least 40 to 50 percent of the bidoon were concealing their true identities. While the law allows up to 2,000 registered bidoon to be naturalized each year, the Government only granted citizenship to approximately 1,600 in 2003. However, an additional 5,500 bidoon in 3 categories, wives of citizens, sons of female citizens married to bidoon, and those whose male relatives are citizens, have been permitted to apply for citizenship beyond the 2,000 per year limit.

Many bidoon are unable to provide documentation proving sufficient ties to the country or present evidence of their original nationality, as they are truly stateless.

Others (the Government claims 26,000 over the past several years) have disclosed their true nationalities and have obtained passports from their countries of origin (Iraq, Iran, Syria, Jordan, and Saudi Arabia). Once documented, bidoon are able to obtain residency permits and other official papers.

The political, economic, and long-term budgetary implications associated with extending citizenship (and the generous welfare benefits that come with it) to the equivalent of roughly 5 percent of the population have rendered the issue highly divisive. Some National Assembly members have threatened to question cabinet ministers, including the Minister of Education and Prime Minister, publicly over the issue. During 2003, the Ministry of Defense approved granting citizenship to an estimated 400 bidoon who participated in the liberation of the country from Iraqi occupation. The Minister of Interior proposed that deceased bidoon among the "Kuwaiti missing persons" whose remains had been identified in Iraq be naturalized, thereby allowing their surviving bidoon family members to gain citizenship. This proposal had not yet been approved at year's end.

In 2002, the Government mandated that those who did not register by the June 27, 2000 cut-off date and did not rectify their nationality status by either disclosing their true nationality or furnishing evidence of their citizenship would be subject to deportation as illegal residents. However, no such action was taken. There were no reports during the year of the Government deciding the nationality of any bidoon without a hearing. As a result of what allegedly were fraudulent citizenship applications, the Government brought forgery charges against several bidoon applicants since July 2001. The only reported forgery conviction was in 2001. There continued to be reports of bidoon obtaining false documents in order to apply for citizenship.

Section 6. Worker Rights

a. Right of Association.—The law provides that most workers have the right to join unions. Foreign laborers employed as domestics constitute a third of the foreign labor force and are specifically excluded from the right to associate and organize. However, for those workers who can join unions, the Government restricted the right of freedom of association to only one union per occupational trade, and permitted unions to establish only one federation.

Approximately 60,000 persons, less than 4 percent of a total work force of 1.55 million, were organized into unions, of which 14 were affiliated with the Kuwait Trade Union Federation (KTUF), the sole legal trade union federation. The Bank Workers Union and the Kuwait Airways Workers Union were independent of the KTUF. The law stipulates that any new union must include at least 100 workers, 15 of whom must be citizens. Both the ILO and the International Confederation of Free Trade Unions (ICFTU) have criticized this requirement because it discourages unions in sectors that employ few citizens, such as the construction industry and much of the private sector. Only about 12.5 percent of employed citizens worked in the private sector during the year. Despite KTUF complaints about the need for an updated law, draft proposals for a new labor law have stalled for more than 10 years.

The Government licensed 20 new unions during the year, including EQUATE Petrochemicals Company Workers Union, the Kuwait Company for Gulf Oil Workers Union, the Kuwait Ports Authority Workers Union, and the National Council for Culture, Arts, and Letters Workers Union.

In 2003, the Government implemented the National Manpower Support Law, a new law aimed at increasing the number of citizens employed in the private sector. During the year, the Ministry of Social Affairs and Labor reported that Article 15 of this law, requiring the establishment of a bank account for every foreign worker to ensure that workers are paid in a timely and transparent manner, had been ratified and is enforced. Interviews with foreign embassy officials representing some of the largest numbers of laborers in the country, as well as interviews conducted with a large cross section of domestic and unskilled foreign laborers indicated that, in practice, Article 15 often was not enforced.

Also in 2003, the Government overturned a 1985 Council of Ministers decree prohibiting the licensing of new associations (NGOs, syndicates, and unions). The former Social Affairs and Labor Minister licensed 18 new worker "syndicates" in the presence of ILO officials the same year. There is a workers syndicate for the Health Ministry, the Education Ministry, and various other ministries. Syndicates, referring to a sector-specific grouping of workers, collectively, comprise unions, such as the Government Worker's Union, although these terms can be used interchangeably. Workers' unions are essentially treated as para-statal organizations (NGOs in local parlance), which receive large government subsidies for infrastructure and operating costs after vetting and approval by the Ministry of Social Affairs and Labor. The expanded unions tend to benefit only citizen laborers employed in the public sector,

while expatriate workers continue to face restrictions. The ILO has urged new syndicates, and all unions, to expand their membership base and raise their own funds in order to preserve their independence from government interference. As a result, many of the syndicates and unions are pressing for greater GOK subsidies, the Government is reluctant to license additional syndicates or NGOs.

The Government's pervasive oversight powers further eroded union independence. The Government subsidizes as much as 90 percent of most union budgets and may inspect the financial records of any union. The law empowers the courts to dissolve any union for violating labor laws or for threatening "public order and morals," although such a court decision may be appealed. The Emir also may dissolve a union by decree. By law, the Ministry of Social Affairs and Labor is authorized to seize the assets of any dissolved union. The law subordinates the legal existence of the unions to the power of the State; however, no union has been dissolved.

The most recent government statistics cite approximately 1.26 million foreigners as employed in the country, comprising over 80 percent of the labor force. However, foreign workers constitute less than 5 percent of the unionized work force. The labor law discriminated against foreign workers by denying them voting rights and permitting them to join unions only after 5 years of residence, although the KTUF stated that this requirement was not widely enforced in practice. Any foreign worker covered under the labor law, which excluded maritime workers and an estimated 500,000 domestic servants, could submit a grievance to the Labor Office regardless of union status; however, such services were not utilized widely.

The labor law prohibits antiunion discrimination. Any worker who alleges antiunion discrimination has the right to appeal to the judiciary. There were no reports of discrimination against employees based on their affiliation with a union. Employers found guilty of such discrimination must reinstate workers fired for union activities.

Unions may affiliate with international bodies. The KTUF belonged to the International Confederation of Arab Trade Unions and the formerly Soviet-controlled World Federation of Trade Unions.

In August, the Government commissioned the KTUF to examine the issues involved in establishing formal representation of foreign workers in the country. Although no action has been taken on this measure, such a move would dramatically alter the nature of labor in the country, permitting across-the-board demands for wage increases and better working conditions.

b. Right to Organize and Bargain Collectively.—With the notable exceptions of the country's approximately 500,000 domestic servants and maritime employees, the labor law provides workers with the rights to organize and bargain collectively, subject to certain restrictions, and the Government generally respected them in practice. Domestic servants may not organize or bargain collectively; they suffer from low wages and often abuse at the hands of their employers. The labor law does not provide for a minimum wage for either domestic servants or private sector workers. Foreign private sector workers are allowed to join unions, but they are barred from leadership positions.

The labor law provides for direct negotiations between employers and "laborers or their representatives" in the private sector. Most disagreements were resolved in such negotiations; if not, either party may petition the Ministry of Social Affairs and Labor for mediation. If mediation fails, the dispute is referred to a labor arbitration board composed of officials from the High Court of Appeals, the Attorney General's Office, and the Ministry of Social Affairs and Labor.

The Civil Service Law makes no provision for collective bargaining between government workers and their employers. Technically, the Government is responsible for establishing wages and employment conditions for civil service workers but generally determined benefits in consultation with civil service unions. Union officials resolved most issues at the working level and had regular access to senior officials.

The law limits the right of workers to strike. It requires all labor disputes to be referred to compulsory arbitration if labor and management are unable to reach a solution. The law does not contain any provision ensuring strikers freedom from legal or administrative action taken against them by the State. However, the Ministry of Social Affairs and Labor has been responsive to sit-ins or protests by workers who faced obvious wrongdoing by their employers. In June, supervisors of the Social Correction House staged a sit-in to protest its failure to provide enough protection against minor criminals and to seek better working conditions. In September, the Justice Ministry Workers Union staged a sit-in to protest workplace discrimination. Also in September, lawyers staged a sit-in at the Palace of Justice to protest alleged professional violations against a fellow attorney. During 2003, there were two partial strikes by employees of the Kuwait Municipality and the Finance

Ministry; both were reportedly resolved amicably, and the employees attained most of their demands.

The Government cooperated closely with the ILO, which maintained a representative office in the country. The ILO Regional Director for Arab States visited the country during 2003 and met with the Minister of Social Affairs and Labor to discuss labor reform issues. The ILO sent two senior officials in November 2001 to advise the Government on how to improve the country's labor situation. At the ILO's urging, the Government agreed to ratify the remaining two of eight conventions from the ILO's Declaration of Basic Rights at Work, but it has not yet submitted them to the National Assembly for ratification. The remaining two are #98 regarding freedom of association and collective bargaining and #100 regarding equal remuneration. These ILO conventions are a long way from ratification, as the recommendation has not yet been sent to the Cabinet for review and presentation to the National Assembly.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced labor "except in cases specified by law for national emergency and with just remuneration"; however, many unskilled foreign workers were treated like indentured servants (*see* Section 6.e.). The Constitution prohibits forced and compulsory labor by children; however, there were credible reports early in the year of young boys being used as camel jockeys, as well as of underage girls working as domestic servants (*see* Sections 5 and 6.d.).

Foreign workers generally may not change their employment without permission from their original sponsors unless they have been in the country for more than 2 years. Domestic workers are particularly vulnerable to abuses stemming from restrictions on transferring sponsorship because the labor law does not protect them. In many cases, employers exercised control over their servants by withholding their passports, although the Government prohibits this practice and, in some instances, acted to retrieve the passports of maids involved in disputes.

Some foreign workers, especially unskilled or semiskilled South Asian workers, lived and worked much like indentured servants. They frequently faced poor working conditions and, at times, encountered physical or sexual abuse (*see* Sections 5 and 6.e.). Domestic servants who run away from their employers as a result of abuse or poor working conditions are routinely treated as criminals under the law as they fall under the purview of the Ministry of Interior rather than the Ministry of Social Affairs and Labor. There were dozens of reports during the year of police arresting and charging domestic servants with crimes such as violating immigration procedures, for attempting to escape from abusive employers. The police typically regarded such problems as matters of law and order, and not as legitimate labor conflicts. Employers or local labor recruitment agencies routinely withheld wages from domestic servants to cover the costs involved in bringing them to the country.

There were credible reports of illegal visa trading, a system by which local sponsors agree to extend their sponsorship (in name only) to foreign workers in exchange for a fee in the range of $1,500 to $4,000 (450 to 1,200 KD). Middlemen, generally foreigners, attracted workers from economically depressed countries, took a commission, and remitted the balance to the nominal sponsor. Once in the country, such agents transfered workers to employers in the informal sector or to parties that would otherwise be unable to sponsor them. Foreign workers recruited with traded visas not only faced possible prosecution for being engaged in illegal employment (that is, working for an employer other than their sponsor), but also were extremely vulnerable to extortion by employers, sponsors, and middlemen.

Visa and residence trading has resulted in a growing number of unemployed foreign workers in the country. Many are unable to earn enough money to pay the illegal fees often charged by their local sponsors or local labor recruitment agencies in exchange for residency and work permits. Many suffered from abuse or mistreatment at the hands of their unofficial employers. Abused foreign workers employed on the basis of illegally traded visas typically failed to report incidents of abuse or poor working conditions to authorities due to their illegal immigration status. Government efforts to stop visa trading, such as by closing front companies for visa traders, have not made significant progress. There are laws aimed at curbing visa trading, with penalties against both employers and visa traders; however, the Government seldom enforced these laws.

The Labor Inspection Department of the Ministry of Social Affairs and Labor was responsible for carrying out routine inspections of all private firms to ensure that all registered foreign workers are actually employed by their legal sponsors. The Ministry suspended the files of employers caught violating labor regulations. During its most recent review, the Ministry of Labor reported 5,154 labor violations from

1,200 firms. There were 826 work permit dispute complaints and 1,078 individual labor-related work complaints. Many of these "violations" involved occupational health, environmental, and safety problems, and poor working conditions. The ministry has reportedly suspended over 1,500 employer files to date for possible labor violations.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Labor Law prohibits child labor, forced or compulsory labor, and exploitation of workers. Child labor was not a significant problem; however, there were credible reports of some South and Southeast Asian children under 18 years of age working as domestic servants. Such underage workers reportedly falsified their ages in order to enter the country. Some very young boys (reportedly from the Sudan, Bangladesh, Pakistan, Eritrea, and Yemen) also were used as camel jockeys (*see* Sections 5 and 6.c.). In March, the Ministry of Social Affairs and Labor issued a decree banning the employment of children under the age of 18 and placing a minimum weight regulation of 45 kilograms (approximately 100 pounds). The decree, however, references parental consent implying that employment and not participation is being banned. Despite this legal loophole, there was no indication that underage children were used as camel jockeys after April. Some businessmen employed their children on a part-time basis.

The legal minimum age is 18 years for all forms of work, both full- and part-time. Employers may obtain permits from the Ministry of Social Affairs and Labor to employ juveniles between the ages of 14 and 18 in certain trades. Juveniles may work a maximum of 6 hours a day on the condition that they work no more than 4 consecutive hours followed by a 1-hour rest period.

The Government has ratified 18 ILO conventions, including 6 of the 8 core conventions. Among the ratified conventions are those prohibiting servitude and forced labor, and Convention 182 concerning the prohibition and elimination of the worst forms of child labor. The Labor Inspection Department of the Ministry of Social Affairs and Labor inspected private firms routinely during the year to monitor compliance with labor laws, including those against child labor. There were no reported Government programs to prevent exploitative child labor or remove children from such labor.

e. Acceptable Conditions of Work.—The Ministry of Social Affairs and Labor is responsible for enforcing all labor laws. An institutionalized two-tiered labor market ensured high wages for citizen employees, most of whom were in government white collar or executive positions, while foreign workers, even those in skilled positions, received substantially lower wages. Some Bangladeshi domestic workers reportedly earned as little as $71 (21 KD) per month. There was no legal minimum wage in the private sector. In the public sector, the monthly legal minimum wage was approximately $771 (227 KD) for citizens and approximately $306 (90 KD) for non-citizens. However, non-citizens do not receive the same social benefits as citizens and must pay fees for education and health care, which are provided free for all citizens. The Government maintains a two-tier health care system that provides substantially lower quality care to non-citizens. The best, most effective medicines, even for serious illnesses, and certain kinds of specialized treatment officially were reserved for citizens.

Private sector wages ranged from $10,200 (3,000 KD) each month for top managers of large companies to between $510 to $2,550 (150 to 750 KD) for other skilled professionals and workers. The public sector minimum wage provided a decent standard of living for a worker and family. Wages of unskilled workers in the private sector did not always provide a decent standard of living, with housemaids often making less than $119 (35 KD) per month. To be eligible to sponsor family members for residency, government and private sector workers must receive a minimum wage of $1,360 (400 KD) per month. Many foreign workers who met or exceeded the minimum income threshold often waited months for government approval to sponsor their immediate family members to the country. During 2003, the Government exempted public school teachers from the minimum salary threshold for sponsoring family members.

The labor law establishes general conditions of work for the private sector, with the oil industry treated separately. The Civil Service Law also prescribes additional working conditions for the public sector, which consisted almost entirely of citizen workers. The labor law limits the standard workweek to 48 hours with 1 full day of rest per week, 1 hour of rest after every 5 consecutive hours of work, provides for a minimum of 14 workdays of leave each year, and establishes a compensation schedule for industrial accidents. In 2000, the Government implemented an unemployment allowance program for citizens unable to find jobs in the public sector or with private companies. The program provides regular allowance payments aver-

aging $340 (100KD) to unemployed citizens until they found jobs. There were no reported cases of abuse of this program during the year. Domestic servants, who specifically are excluded from the labor law, and other unskilled foreign workers in the private sector frequently worked greatly in excess of 48 hours, often with no day of rest and no annual leave.

In amendments to the Labor Law in the Private Sector implemented in 1997, the Government extended the weekly 24 consecutive-hour rest period to temporary workers employed for a period of less than 6 months and workers in enterprises employing fewer than five persons. The law pertaining to the oil industry provides for a 40 hour workweek, 30 days of annual leave, and sick leave. Laws establishing working conditions were not applied uniformly to foreign workers.

During the year, the Interior Ministry's Domestic Labor Department implemented new measures designed to protect the welfare of domestic servants. The first was an extension from 3 to 6 months during which labor recruitment agencies are responsible for resolving labor disputes involving domestic servants. If problems occur after the 6-month period, the sponsor or employer is responsible by law to resolve them. The Interior Ministry has implemented a new arrangement whereby a ministry officer investigates and resolves labor disputes in cooperation with the laborers' representative embassies. Officers have been assigned within the Domestic Labor Department to liaise specifically with the Indonesian, Philippine, Sri Lankan, and Indian Embassies on labor problems.

The Government has issued occupational health and safety standards; however, compliance and enforcement appeared poor, especially with respect to unskilled foreign laborers. To decrease accident rates, the Government periodically inspected enterprises to raise awareness among workers and employers and to ensure that they abided by safety rules, controlled the pollution resulting from certain dangerous industries, trained workers who used new machines in specialized institutes, and reported violations. Workers had the right to remove themselves from dangerous work situations without jeopardizing their continued employment, and legal protection existed for both citizen and foreign workers who filed complaints about such conditions. However, Government attention to worker safety issues remained insufficient, resulting in poor training of inspectors, inadequate injury reports, and no link between insurance payments and accident reports.

The law provides that all outdoor work stop in the event that the temperature rises above 120 degrees Fahrenheit; however, there were allegations that the Government's Meteorological Division falsified official readings to allow work to proceed. The Meteorological Division consistently denied these allegations. In the past, recorded temperatures reached 120 degrees Fahrenheit, but work reportedly continued at many outdoor locations.

Employers often exploited workers' willingness to accept substandard conditions. Some foreign workers, especially unskilled or semiskilled South Asian workers, lived and worked much like indentured servants, were unaware of their legal rights, and generally lacked the means to pursue legal remedies. They frequently faced contractual disputes and poor working conditions, and sometimes physical and sexual abuse (*see* Sections 5 and 6.c.). Most were in debt to their employers before they arrived in the country, and they had little choice except to accept the employer's conditions, even if they breached the contractual terms. It was not uncommon for wages to be withheld for a period of months or to be decreased substantially in violation of their labor contracts. Many foreign workers were forced to live in "housing camps," which generally were overcrowded and lacked adequate cooking and bathroom facilities. Workers were housed 10 or more to a room in squalid conditions, many without access to adequate running water. The workers were only allowed off the camp compound on company transport or by permission of the employer. Many foreign workers went heavily into debt and could not afford to return home.

The labor law discriminates against foreign workers by limiting their ability to join unions (*see* Section 6.a.). The KTUF administered an Expatriate Labor Office, which was authorized to investigate complaints of foreign laborers and provide them with free legal advice. However, these services were not utilized widely. Any foreign worker could submit a grievance to the labor office regardless of union status.

The Labor Law provides for employer-provided medical care and compensation to both citizen and foreign workers disabled by injury or disease due to job-related causes. Once a worker filed a claim, the courts decided the amount of compensation, which was typically paid in a lump sum rather than in monthly payments. Workers, especially foreigners, have had difficulty enforcing such decisions. The law also requires that employers provide periodic medical examinations to workers exposed to environmental hazards on the job, such as chemicals and asbestos. Adequate and affordable health care is a serious problem for many foreign workers. Official health policies discriminated against foreigners in the provision of medicines and treat-

ment. Foreigners must pay yearly medical coverage fees to the Ministry of Health and additional fees each time they received medical care, required tests, specialized procedures, or medication. Many employers deducted the medical fees from employees' salaries. Foreign workers and their family members must pay these yearly government-mandated medical coverage fees to obtain or renew residency or work permits. In September 2003, more than 1,000 foreign workers protested at the Ministry of Health against reported delays in processing their medical claims (*see* Section 2.b.). The Ministry reportedly called in security officials to disperse the crowd. There were no reports of violence or arrests.

It was common for employers to confiscate and withhold the passports of their domestic servants illegally, preventing them from departing the country. Maids paid the same amount or more than other unskilled or semiskilled workers for visas to work in the country.

Runaway servants often sought refuge at their source country embassies for either repatriation or assistance in dealing with employers. The number of runaway servants in need of assistance remained significant during the year as conditions for domestic employees remained poor.

Although most such workers sought shelter due to contractual or financial problems with their employers, some women also alleged physical or sexual abuse. Some embassies continued to report the steady occurrence of physical abuse and mistreatment involving domestic servants, including withheld salaries, overwork, and inadequate food. Each Government has attempted to register its nationals who arrive to work in the country as domestic employees and to regulate recruiting agents in their home countries, with some success. Limited services provided by the police facility designated to mediate among embassies, domestic workers, and employers made it very difficult for domestic servants to file complaints, receive withheld salary, or reach settlement in cases of mistreatment. Domestic servants must deal with neighborhood police stations, whose personnel are untrained and inexperienced in handling such cases and often side with the employer. Source country embassies reported widespread police harassment of and discrimination against domestic servants during the year (*see* Sections 5 and 6.c.).

Some countries warned their female citizens about the risks of exploitation or banned them altogether from working in the country as domestic servants. Some years ago, the Government of India temporarily banned its nationals from working in the country as domestic employees, but Indian nationals continued to buy visas and enter the country as domestic workers. The Government of India limits the granting of domestic work permits for the country to women over age 30 and only from specific states, which has helped reduce some employment problems. The embassy reported that it received approximately 40 calls per month from Indian workers, including domestic servants, complaining of employment problems. The Embassy of Bangladesh estimated that 90 percent of the approximately 160,000 Bangladeshi workers in the country were unskilled laborers and that 30 percent of these workers received no salaries from their private sector employers, while 10 percent of Bangladeshi domestics were paid nothing beyond room and board. The embassy reported that it received approximately 100 calls per month from Bangladeshi workers, including domestic servants, complaining of serious employment problems. Of the approximately 130 runaway Filipina domestic servants in the Philippine Embassy shelter, on average, at any given time during the year, approximately 30 percent reported some form of mistreatment by their employers and 6 percent reported sexual abuse.

The courts rule in favor of employees in an estimated 90 percent of the labor disputes they hear; however, no legal mechanism exists to enforce judgments. There is no compulsion for employers to obey court rulings, and workers often do not receive court ordered compensation. Employers also reportedly use illegal methods to pressure foreign employees to drop cases against them, such as withholding their passports, encouraging police intimidation and brutality, threatening deportation, and filing criminal charges against them for fabricated crimes, such as theft.

LEBANON

Lebanon is a parliamentary republic in which the President is a Maronite Christian, the Prime Minister a Sunni Muslim, and the Speaker of the Chamber of Deputies a Shi'a Muslim. President Emile Lahoud took office in 1998 after an election by Parliament that was heavily influenced by Syria. In September, in a locally unpopular move, Syria pressured parliamentarians to pass a Constitutional amend-

ment to extend President Lahoud's term for 3 additional years; it will now end on November 24, 2007. The Parliament consists of 128 deputies, equally divided between Christian and Muslim representatives. In the 2000 parliamentary elections, incumbent Prime Minister Salim al-Hoss lost his seat in a contested election, and former Prime Minister Rafiq Hariri then was named Prime Minister by President Lahoud. According to international observers, the elections were flawed; however, there reportedly were fewer voting irregularities than in the 1996 parliamentary elections. The Constitution provides for an independent judiciary; however, in practice, it was subject to political pressure.

Syrian military and Lebanese and Palestinian militias, particularly Hizballah, retained significant influence over much of the country. Approximately 15,000 Syrian troops were stationed in locations throughout the country, excluding the area bordering on Israel in the south of the country. In September, Syria claimed to have carried-out a redeployment of its troops in the country, withdrawing approximately 3,000; however, the actual number is believed to be less than 1,000. An undetermined number of Syrian military intelligence personnel in the country continued to conduct their activities independently. In 2000, following the Israeli Defense Forces (IDF) withdrawal from the south, the Government deployed more than 1,000 police and soldiers to the former Israeli security zone. However, the Government has not attempted to disarm Hizballah, a terrorist organization operating in the region, nor have the country's armed forces taken sole and effective control over the entire area. Palestinian groups, including armed factions, operated autonomously in refugee camps throughout the country.

The security forces consist of the Lebanese Armed Forces (LAF) under the Ministry of Defense, which may arrest and detain suspects on national security grounds; the Internal Security Forces (ISF) under the Ministry of the Interior, which enforce laws, conduct searches and arrests, and refer cases to the judiciary; and the State Security Apparatus, which reports to the Prime Minister and the Surete Generale (SG) under the Ministry of the Interior, both of which collect information on groups deemed a possible threat to state security. These security forces committed numerous, serious human rights abuses, sometimes acting independently, and other times on instruction of senior government officials. Syrian and Palestinian security forces operated independently of Lebanese security forces and also committed numerous, serious human rights abuses. There were credible reports that Lebanese security forces personnel detained individuals on the instruction of Syrian intelligence agencies.

The country maintained a free market economy, with no controls on the movement of capital and foreign exchange. The country's population of approximately 4.4 million, had an estimated active labor force of 1.5 million, the majority of which were employed in the service sector and in a small industrial sector. Real gross domestic product continued to grow at 2 to 2.5 percent annually. While there were no reliable government statistics, most analysts estimated unemployment at 20 to 25 percent.

The Government's overall human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The right of citizens to change their government remained significantly restricted by the lack of complete government control over parts of the country, shortcomings in the electoral system, the flawed 2000 elections, and Syrian influence. Members of the security forces used excessive force and tortured and abused some detainees. Prison conditions remained poor. The Government also arbitrarily arrested and detained persons who were critical of government policies. Lengthy pretrial detention and long delays in trials remained problems. The courts were subject to political pressure, seriously hampering judicial independence. During the year, the Government infringed on citizens' privacy rights and continued surveillance of political activities. The Government limited press and media freedom. The Government continued to restrict freedom of assembly and imposed some limits on freedom of association. Domestic violence against women and children remained problems. There were some restrictions on freedom of religion. The Government imposed some limits on freedom of movement. Discrimination against women in some areas and widespread, systematic discrimination against Palestinians, forced labor, including by children, child labor, and the mistreatment of foreign domestic servants remained problems. Trafficking in persons was a problem.

RESPECT FOR HUMAN RIGHTS

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

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

On February 11, Mohammad Shreidi, brother of Abdallah Shreidi, leader of the Asbat al-Nur Sunni Islamic extremist group, was shot and killed by unidentified gunmen near his home in Ayn al-Hilwe. Abdallah Shreidi had been critically injured and died 3 months after militant Islamists and Palestinian gunmen clashed in May 2003. At year's end, there were no arrests in either case.

On July 6, Hussein Jamil Ramadan was found dead in a detention facility run by the SG. The SG claimed that Ramadan committed suicide and, in a communiqué, said that the Prosecutor's office ordered an investigation into the matter. Hussein's family doubted the suicide story and requested a detailed investigation. At year's end, a final report had not been issued.

On July 19, a man identified as Hizballah member Ghalib Awwali was killed by a bomb planted in his car in the Mu'awwad area of the southern suburbs of Beirut. Hizballah Secretary General Hassan Nasrallah accused Israel of masterminding the killing; at year's end, there were no arrests.

On May 27, the General Confederation of Labor called for a general strike to protest high fuel prices. The protest turned violent when protestors in Beirut closed roads with burning tires. LAF troops attempted to open roads; however, protestors pelted them with stones, and LAF troops opened fire on demonstrators killing 5 persons and wounding at least 17 others (*see* Section 2.b.). Several of the protesters were arrested and sentenced to 30 to 60 days in jail for disturbing the peace and resisting the army; however, no legal action was taken against any of the soldiers. at least 17 others (*see* Section 2.b.). Several of the protestors were arrested and sentenced to 30 to 60 days in jail for disturbing the peace and resisting the army; however, no legal action was taken against any of the soldiers.

On August 2, 2003, a man identified as 42-year-old Hizballah member Ali Hussein Saleh was killed in a car bomb explosion in Beirut's southern suburbs. Some government officials and Hizballah accused Israel of carrying out the killing; at year's end, there were no new developments in the case.

No group claimed responsibility for the 2002 killing of American citizen missionary Bonnie Weatherall; however, on September 22, security forces arrested 14 people they claimed were members of the al-Qaeda network, and the Prosecutor General announced that the leader of the group, Ahmad Mikati, played a role in the Weatherall killing.

There were no developments in the 2002 killing of Ramzi Irani, the officer-in-charge of the banned Lebanese Forces.

During the year, violent cross-border incidents since the 2000 IDF withdrawal, involving Hizballah, Palestinian, and other unidentified armed elements, continued.

In January, Hizballah fighters fired on an Israeli military vehicle in South Lebanon after it crossed the international border in the town of Marwaheen in the western sector and killed an Israeli soldier. Israeli warplanes bombed Hizballah bases in Southern Lebanon in retaliation.

On March 22, Hizballah fired rockets and mortars at Israeli army positions in the Sheba' farms and adjacent areas. This attack followed eight incursions into Lebanese airspace by Israeli aircraft.

On March 23, Israeli helicopters targeted guerrillas preparing to fire rockets into Israel near Hula. Two members of the Popular Front for the Liberation of Palestine-General Command (PFPL-GC) were killed and one was wounded.

On May 5, a cycle of armed exchanges across the Blue Line began. Israel carried out more than 20 air sorties over the country. Subsequently, Hizballah fired several anti-aircraft rounds with shrapnel landing inside Israel. On May 7, Hizballah attacked IDF positions in the Sheba' farms with heavy rocket, mortar, and small arms fire. One Israeli soldier was killed and five others were wounded in the attack. Lebanese authorities asserted that the Hizballah firing had been preceded by an Israeli army foot patrol crossing the Blue Line.

On June 7, unidentified armed operatives, presumed to be Palestinians, fired three rockets toward Israel. Two of the rockets landed on Lebanese territory and one fell into the sea. In retaliation, the Israeli air force attacked a Palestinian installation near Naameh, 10 kilometers south of Beirut, which was maintained by the PFLP-GC. No casualties were reported.

On July 20, Hizballah snipers fired on an Israeli outpost near Chetula, killing two Israeli soldiers. The IDF retaliated with tank fire directed at a Hizballah position, killing one operative manning the post. That night, there were multiple Israeli flights over Lebanon, two of which generated powerful sonic booms over Beirut.

In October, unknown persons made an attempt on the life of former Minister and Druze politician Marwan Hamadeh, allied with Druze leader Walid Junblatt in calling for a redirection in Syrian influence in Lebanon. A bomb exploded near his car injuring his driver and killing his bodyguard. Hamadeh escaped with serious inju-

ries. At year's end, a government investigation was underway, but there were no arrests.

The country's landmine and unexploded ordinance (UXO) problem was estimated by the National Demining Office at over 550,000 landmines and UXOs throughout the country, with as many as 400,000 of these in the former Israeli occupied security zone in the south. From the late 1990s to the present, 150,000 landmines and 80,000 UXO's have been destroyed. One million square meters of land were cleared during the year, much of it returned to productive use. According to the National Demining Office, there have been a total of 2,793 landmine victims in the country since 1990. During the year there were nine landmine victims, most of whom were deminers. Foreign governments continued to support these demining efforts.

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

In January, Hizballah and Israel carried out the first phase of a prisoner exchange. As a result, 21 Lebanese prisoners were returned to the country on January 29, followed by the January 30 repatriation of the remains of 59 Hizballah fighters killed in guerilla operations during the Israeli occupation of South Lebanon. Hizballah for its part returned the remains of three Israeli soldiers and released IDF reservist Elhann Tannenbaum, who was kidnapped in 2000. A second phase, a promised Hizbollah investigation into the fate of Israeli airman Ron Arad and the release of additional Lebanese prisoners by Israel, which was the result of secret negotiations, had not materialized at year's end.

At year's end, the Government had not yet disclosed the findings of a 2000 report investigating cases of disappearance during the 1975–89 civil war.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution does not specifically prohibit torture, and there continued to be credible reports that security forces abused detainees and, in some instances, used torture. Human rights groups reported that torture was a common practice. The Government acknowledged that violent abuse usually occurred during preliminary investigations conducted at police stations or military installations, in which suspects were interrogated without an attorney. Such abuse occurred despite laws that prevented judges from accepting any confession extracted under duress.

Methods of torture reportedly included beatings and suspension by arms tied behind the back. Some former Southern Lebanese Army (SLA) detainees reported that they were abused or tortured. Amnesty International (AI) and other human rights organizations reported that some detainees were beaten, handcuffed, blindfolded, and forced to lie face down on the ground.

In September, Ismail al-Khatib died in custody a week after being arrested as a suspected leader of al-Qaeda in Lebanon. The Government coroner reported al-Khatib, who was 31 years old, died of a massive heart attack, but speculation attributed his death to torture. An independent investigation was undertaken by local human rights organizations; however, at year's end, no findings had been released.

During the year, there were credible reports that army intelligence held detainees blindfolded and handcuffed in the "farouj" position (Arabic for "chicken"). Individuals reportedly were handcuffed with their hands at their ankles in a hunched over position for days at a time while being interrogated.

Abuses also occurred in areas outside the Government's control, including in Palestinian refugee camps. During the year, there were reports that members of the various groups that controlled specific camps detained their Palestinian rivals (*see* Section 1.d.). Rival groups, such as Fatah and Asbat al-Nur, regularly clashed over territorial control in the various camps, sometimes leading to exchanges of gunfire and the detention of rival members.

Prison conditions were poor and did not meet minimum international standards. Prisons were overcrowded, and sanitary conditions in the women's prison, in particular, were poor. There were no serious threats to health, but indirect threats were noted, such as skin conditions and physical and mental stress; the latter was especially noteworthy in Yarze prison. The Government did not allocate funds for prison reform; however, it allocated funds to build a new detention facility in the Biqa' area. The total number of prisoners was estimated at about 5,000, of whom one third have yet to be tried or convicted. The Government made a modest effort to rehabilitate some inmates.

During April, the parliamentary Committee for Human Rights carried out inspection visits to most of the detention facilities with the exception of the facilities run by the Ministry of Defense. The head of the delegation stated that the "central prison of Roumieh faces some problems that could be easily resolved." However, commenting on the women's prisons, he said these prisons do not deserve to be considered as stables for animals, and called for their immediate closure. Describing the

prison in Baabda, he said, "there are only 5 cells and 95 inmates and the cells are infested with cockroaches and rodents and prisoners are not even exposed to sun."

In November, the First Lady inaugurated a renovation in Roumieh prison, which was funded by a human rights organization. During June 2003, she awarded certificates to 44 women held in Baabda prison who completed training in hairdressing, cosmetics, and knitting. During May 2003, 40 prisoners were awarded certificates for computer skills they acquired at Roumieh central prison. The ISF donated 20 used computers to provide training for more inmates.

Men, women, and juveniles were held separately in government prisons. Although there was some effort to keep pretrial detainees separate from convicted prisoners, overcrowding often prevented such separation.

The SG, which is in charge of border posts, operated a detention facility for detainees, mostly Egyptians and Sri Lankans, pending deportation. Their detention was supposed to be for 1 to 2 months, pending the regularization of their status. However, some persons, primarily asylum seekers, were detained for more than a year and eventually deported.

Former Lebanese Forces leader Samir Ja'Ja, who is serving four life sentences for the murder or attempted murder of various political figures during and after the civil war, was kept in solitary confinement in a prison in the basement of the Ministry of Defense. Government officials stated that his solitary confinement was necessary for his own protection, but they moved him to a more comfortable ground level cell in September.

During the year, local journalists and human rights organizations were given access to all prisons except the Yarze prison controlled by the Ministry of Defense. During the year, Yarze was visited by members of the Human Rights Committee of the Parliament. Any former SLA soldiers still in prison were treated as normal prisoners. In September 2002, the Cabinet ordered that International Committee of the Red Cross (ICRC) representatives should be allowed to visit all prisons, including the one under the control of the Ministry of Defense. However, by year's end, the Ministry of Defense continued to refuse permission for the ICRC to visit Yarze.

d. Arbitrary Arrest or Detention.—The law requires the ISF to obtain warrants before making arrests; however, the Government used arbitrary arrest and detention. Military intelligence personnel made arrests without warrants in cases involving military personnel and those involving espionage, treason, weapons possession, and draft evasion (*see* Section 1.e.). The 2004 report by the Parliamentary Commission for Human Rights estimated that of the approximately 5,000 persons being held in prison, one third had not been convicted of any crime.

The Code of Criminal Procedure provides legal protection to suspects, including the right to a lawyer, to a medical examination, and to inform next of kin. Under the code, arresting officers are required to refer a subject to a prosecutor within 48 hours of arrest. If a suspect is held more than 48 hours without formal charges, the arrest is considered arbitrary and the detainee must be released. In such cases, officials responsible for the prolonged arrest may be prosecuted on charges of depriving personal freedom. A suspect caught in hot pursuit must be referred to an examining judge, who decides whether to issue an indictment or order the release of the suspect. Under the code, bail is available in all cases regardless of the charges. Many provisions of the code were not observed in practice.

Defendants have the right to legal counsel, but there was no state-funded public defender's office. The bar association operated an office for those who could not afford a lawyer, and the court panel on many occasions asked the bar association to appoint lawyers for defendants.

Security forces continued the practice of arbitrary arrest and detention. On several occasions during the year, security forces detained and arrested citizens on grounds of national security. Protestors were also arbitrarily detained and arrested (*see* Section 2.b.). The Government also detained, interrogated, and harassed journalists (*see* Section 2.a.); however, in contrast to previous years, there were no instances of physical abuse.

In September 2003, the SG detained and questioned Samira Trad, executive manager of Frontiers Center, a private company that conducted studies and advocates for the rights of marginalized people, for her human rights activities. Authorities questioned her concerning slandering the country and operating an illegal association. Subsequently, Trad was released without charges, and has not been further harassed.

The Government initially held incommunicado most of the 3,000 SLA members who surrendered to the authorities following the IDF's withdrawal in 2000; however, lawyers and family members have since been provided access. Most SLA mem-

bers have served their sentences and have been released; others continued to serve their sentences as regular prisoners.

The authorities often detained without charge for short periods of time political opponents and opponents of the Syrian Government.

Palestinian refugees were subject to arrest, detention, and harassment by state security forces, Syrian forces, and rival Palestinians. For example, Palestinian refugees living in camps were not allowed to bring in construction material to repair damaged houses. Lebanese security services use this circumstance as leverage to recruit informers and buy their allegiance.

Again, during the year, there were no allegations that the Government transferred citizens to Syria, and the nine persons arrested by Syrian Forces during and after the civil war and turned over in 2000 to the Government reportedly were released quietly at the end of the year. Abu Haytham Karara, an official of the Progressive Socialist Party, who was one of the nine, was deported to Egypt. No formal charges were brought against any of the nine. Human rights activists believed that there were numerous Lebanese, Palestinians, and Jordanians in prolonged and often secret detention. According to a 2002 AI report, Syrian forces operating in the country carried out searches, arrests, and detentions of citizens outside any legal framework. Syrian forces in the country continued to influence citizens through extralegal means, such as questioning and the threat of detention.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, it was subject to political pressure. The Constitution provides for a Constitutional Council to determine the constitutionality of newly adopted laws upon the request of 10 members of Parliament and stipulates that judges shall be independent in the exercise of their duties; however, influential politicians as well as Syrian and Lebanese intelligence officers at times intervened and protected their supporters from prosecution.

In a speech on September 6, President Lahoud criticized political interference in the judiciary and said, "The judiciary ought to be immune from political interference." He pledged to fight political interference during the next 3 years of his extended mandate.

The judicial system consists of the regular civilian courts; the Military Court, which tries cases involving military personnel and civilians in security-related issues; the Judicial Council, which tries national security cases; and the tribunals of the various religious affiliations, which adjudicate matters of personal status, including marriage, divorce, inheritance, and child custody (*see* Section 5).

The Judicial Council is a permanent tribunal of five senior judges that adjudicates threats to national security. Upon the recommendation of the Minister of Justice, the Cabinet decides whether to try a case before this tribunal. Verdicts from this tribunal are irrevocable and may not be appealed.

The Ministry of Justice appoints all other judges based on the religious affiliation of the prospective judge. A shortage of judges impeded efforts to adjudicate cases backlogged during years of internal conflict. Trial delays were aggravated by the Government's inability to conduct investigations in areas outside of its control.

Trials were generally public, but judges had the discretion to make a court session secret. There is no trial by jury. Defendants have the right to be present at trial and the right of timely consultation with an attorney. Defendants have the right to confront or question witnesses against them, but they must do so through the court panel, which decides whether or not to permit the defendant's question. Defendants and their attorneys have access to government-held evidence relevant to their cases and the right of appeal. These rights generally were observed in practice.

Defendants on trial for security cases, which were heard before the Judicial Council, have the same procedural rights as other defendants; however, there was no right to appeal in such cases.

The Military Court has jurisdiction over cases involving the military as well as those involving civilians in espionage, treason, weapons possession, and draft evasion cases. Civilians may be tried for security issues, and military personnel may be tried for civil issues. The Military Court has two tribunals—the permanent tribunal and the cassation tribunal—the latter hears appeals from the former. A civilian judge chairs the higher court. Defendants on trial under the military tribunal have the same procedural rights as defendants in ordinary courts.

During the year, there were several reports that Hizballah subjected former SLA operatives who returned to their villages to regular harassment including arrest. In July, one parliamentarian publicly criticized Hizballah for detaining Fouad Mazraani on the accusation of cooperating with the Israelis. Although Mazraani was released, the parliamentarian argued that any such action was the responsibility of the Government.

During the year, the Military Court concluded the cases of the remaining SLA militiamen who surrendered to the Government following the IDF withdrawal. Domestic human rights groups and international nongovernmental organizations (NGOs) reported that the trials were open to journalists and members of the public but were not fair. The standard defense presented by lawyers was that the Government had been unable to defend citizens living under Israeli occupation, and the residents had no choice but to work with the occupiers.

Approximately one-third of the former SLA members received 11-year prison sentences and approximately one-third received sentences of 3 to 4 weeks. The Military Court denied every recommendation for the death sentence. Most SLA members have served their sentences and have been released; others continued to serve their sentences as regular prisoners (*see* Section 1.d.).

In 2002, Mahmoud Salim Mahbouba filed a claim that armed individuals broke into his house and kidnapped his son, Mohammed, a former SLA member who was released from Roumieh prison after serving a 2-year sentence. Subsequently, Mohammed Mahbouba was released, but by year's end, no action had been taken to determine who committed the crime.

In 2001, the bar association lifted the immunity of lawyer Muhammad Mughrabi to permit Mughrabi's prosecution for criticizing the country's judicial system at a press conference. Subsequently, five different penal cases were started against him, but no action was taken on any of them during the year.

There was no action taken in the 77 military and civilian cases of Aoun and Ja'Ja supporters. The cases of Nadim Lteif and Hikmat Deeb, who were charged with defaming the Lebanese and Syrian armies, were referred to both military and civilian courts (*see* Section 1.d.). At year's end, their case remained pending. The court continued to schedule sessions, but it repeatedly postponed action.

In February, in an unprecedented verdict, the penal judge of Beirut dismissed charges against 13 anti-Syrian activists (11 Aounists and 2 Lebanese Forces supporters arrested in August 2001, saying that, "having opposing views does not constitute a violation of the law."

Palestinian groups in refugee camps operated an autonomous and arbitrary system of justice. For example, local popular committees in the camps attempted to solve disputes using tribal methods of reconciliation. If the case involved a killing, the committees occasionally used their good offices to hand over the perpetrator to Lebanese authorities for trial.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution provides for the inviolability of the domicile; however, authorities frequently interfered with the privacy of persons regarded as enemies of the Government. The law requires that prosecutors obtain warrants before entering homes, except when the security forces are in close pursuit of armed attackers; however, the law was not respected in practice.

The Government and Syrian intelligence services used informer networks and monitored telephones to gather information on their perceived adversaries. The Army Intelligence Service monitored the movements and activities of members of opposition groups (*see* Section 2.b.). The Government conceded that security services monitored telephone calls but claimed that monitoring occurred only with prior authorization from competent judicial authorities.

Militias and non-Lebanese forces operating outside the area of central government authority frequently violated citizens' privacy rights. Various factions also used informer networks and the monitoring of telephones to obtain information regarding their perceived adversaries. Despite a 2000 law regulating eavesdropping, security services continued to eavesdrop without prior authorization. Politicians and human rights advocates reported increasing and more overt government intelligence services' surveillance of political meetings and political activities across the religious and political spectrum.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, the Government limited these rights in practice, particularly by detaining and charging activists critical of government policies and by intimidating journalists and broadcasters into practicing self-censorship. The Government censored television and radio broadcasts on a case-by-case basis.

Despite repeated attempts to restrict freedom of opinion and speech during the year, daily criticism of government policies and leaders continued. Dozens of newspapers and hundreds of periodicals were published throughout the country and were financed by various local and foreign groups. The press was privately owned, and press content often reflected the opinions of financial backers.

The Government continued to restrict radio and television broadcasts in a discriminatory manner. There were 7 television stations and 30 radio stations. The Government owned one television and one radio station; the remaining stations were owned privately. Inexpensive satellite television was available widely.

Although the Government did not censor broadcasts directly, government officials effectively exerted pressure on journalists to practice self-censorship. The Government had several legal mechanisms at its disposal to control freedom of expression. The SG was authorized to censor all foreign magazines and non-periodical works, including plays, books, and films, before they were distributed in the market. The law prohibits attacks on the dignity of the head of state or foreign leaders. The Government may prosecute offending journalists and publications in the Publications Court, a special tribunal empowered to try such matters. Moreover, the 1991 security agreement between the Government and Syria contained a provision that effectively prohibits the publication of any information deemed harmful to the security of either state. In view of the risk of prosecution, journalists censored themselves on matters related to Syria.

In March, the Surete Generale censored a video clip entitled "Why Are You Emigrating?" by Najwa Karam, a well-known singer. The censorship department at the SG linked the content of the video clip to the clashes that occurred between security forces and some students who were protesting against youth emigration.

In September, the SG acted on a recommendation from the Catholic Center for Information and banned the distribution of the Arabic translation of the book, "The Da Vinci Code." The SG issued a communiqué stating that the printing law banned the introduction and distribution of any foreign printed material that could incite sectarian tension, harm security, or offend national feelings. As a result, local booksellers removed all French, English, and Arabic copies.

In August, Syrian intelligence officials pressured Lebanese religious clerics to delete a clause from an official statement that called for respecting the Constitution during the presidential elections. The clause was omitted from the local printed press although most local radio and television stations repeatedly broadcast the full text.

The Government continued to harass, abuse, and detain journalists. In March 2003, Adonis Akra, author of a book entitled "When My Name Became 16: 15 Days in Detention," was banned from attending the signing ceremony at a book festival. The Prosecutor General, Adnan Addoum, indicated that Akra signed a petition pledging neither to publish his book nor to participate in any advertising activity for the book. Akra was among those arrested during a 2001 opposition crackdown. Akra and the owner of the publishing house were referred to the Publication Court for harming the army, the judiciary, the political authority, and the country's relations with a sisterly nation. The court had begun a hearing process, and several court hearings were conducted; however, at year's end, it was unclear when a verdict would be issued.

In July 2003, on the instructions of the Prosecutor General, Beirut Public Prosecutor Joseph Maamari charged Amer Mashmushi, the managing director of the daily al-Liwa, with defaming the President of the Republic. If convicted, Mashmushi could serve a sentence of up to 2 years imprisonment and a fine of up to $60,000 (90 million pounds). At year's end, Mashushi had not been jailed, but the case was still pending in court.

In November 2003, Beirut Chief Investigating Judge Hatem Madi formally indicted self-exiled former general Michel Aoun and charged him under Article 288 of the Penal Code for making statements unauthorized by the Government which could harm the country's relations with a sisterly nation, spreading false news abroad, aggravating sectarian tensions, and impersonating a high civilian government official when he testified before a foreign government. If convicted, Aoun could face imprisonment for up to 15 years and be banned from returning to the country. The case was referred to court at the end of 2003 and, at year's end, a court hearing was scheduled for February 8, 2005.

There were no new developments in the 2002 censorship lawsuits against the International Herald Tribune for a pro-Israeli advertisement of the Anti-Defamation League. In February 2003, the Beirut investigating judge issued a permanent search warrant to disclose the names of persons responsible for running the advertisement. At year's end, the warrant was not cancelled, but authorities have said it would not be pursued, and the case was regarded as closed.

On July 13, the Publication Court in Beirut dropped the 2002 censorship lawsuit against the Saudi-owned Asharq al-Awsat and its responsible editor, stating that there was not an intention to "insult the President of the Republic nor to disturb civil order."

Still pending was the 2002 lawsuit by the Beirut Public Prosecutor against the chairman and news editor of Lebanese Broadcasting Corporation International for having "instigated sectarian discord and threatened civil peace" during its coverage of a shooting incident during which eight employees of the Ministry of Education were killed. Similarly, still pending was the 2002 case against the Murr Television Station (MTV), its political news director, and the host of the "Referendum" political talk show with "broadcasting material whose nature is to damage ties to a sisterly nation" (Syria) and "assailing the dignity of the President, slandering the security services, and undermining social order."

At year's end, MTV and Radio Mount Lebanon (RML) remained closed. In April 2003, the Lebanese Publication Court of Cassation ruled against reopening MTV and RML, marking the end of a series of appeals to reverse the September 2002 closure decision. Both had been closed in 2002 under the Parliamentary Election Law, which stipulates closure for broadcasting election propaganda during campaigns.

During 2002, State Prosecutor Addoum announced that he would examine declarations, including television interviews and press statements, made by opposition members in the country and abroad after the Christian Maronite World Congress held in Los Angeles in June 2002 in search of incriminating elements. This included statements about Syria and the Syria Accountability Act. Addoum ordered security agencies to gather information about opposition activities outside of the country.

In general, the Government did not restrict Internet access, and it was used widely.

The Government did not restrict academic freedom, and the country had a strong private educational system.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. Any group that wished to organize a rally had to obtain the prior approval of the Ministry of Interior, which did not render decisions consistently. Groups opposing government positions sometimes did not receive permits.

On several occasions during the year, military personnel used excessive force to disperse protesters of government political and economic policies and the Syrian presence in the country, sometimes detaining or arresting them (*see* Sections 1.c. and 1.d.).

During March, there were several demonstrations and sit-ins. On March 8, there were clashes between residents of Beirut's southern suburbs of Jnah and Lebanese security forces after residents prevented technicians from the national power company, Electricite du Liban, from removing illegal electricity connections. LAF and ISF personnel fired into the air to disperse protestors. Ricocheting shrapnel injured three persons.

On March 10 and 12, the anti-Syrian Free Patriotic Movement (FPM) organized two separate demonstrations in Beirut. These demonstrations were carried out despite an order from the Governor of Beirut banning demonstrations until the municipal elections were completed in May. The first, at the St. Joseph University, protested Syrian occupation, which it claimed was leading to youth emigration. When the students attempted to take their protests outside the university campus, they were prevented by the security forces, which beat the students back with rifle butts and batons. Several students and security personnel, including a senior ISF officer, were injured. Three students were arrested but released shortly thereafter. The second demonstration was organized by the FPM to mark the 15th anniversary of the "war of liberation" launched during 1989 by exiled General Michel Aoun against Syrian troops stationed in the country. Riot police, backed by army troops, beat protestors and used water canons to break up the demonstration. At least 10 students were injured, and 4 were detained briefly.

On April 4, reportedly 10 persons were injured after security forces attacked and beat with batons demonstrators attempting to march to the U.N. Economic and Social Commission for Western Asia building in Beirut. The protestors reportedly sought to submit a petition calling for release of Lebanese held in Syrian prisons; the demonstrators defied a ban on demonstrations issued by the Governor of Beirut.

On May 27, the General Confederation of Labor called for a general strike to protest high fuel prices. The protest, carried out mostly by van and taxi drivers, turned violent when protestors closed roads with burning tires in the neighborhood of Hay el-Sullum in the southern suburbs of Beirut. When LAF troops attempted to open roads, protestors pelted them with stones. LAF troops opened fire on demonstrators killing five persons and wounding several others. After the shootings, demonstrators stormed the nearby Ministry of Labor and set it on fire. The seven-story building was severely damaged. On May 31, the Government held a special session to de-

nounce the riots and announced compensation for the victims' families, with payments of $33,000 (50 million Lebanese pounds) each. Forty-eight persons were arrested and charged by a military investigator with incitement to riot, resisting security forces, and assisting rioters (*see* Section 1.a.). The military tribunal conducted the trial and, on June 19, sentenced all of those arrested to imprisonment ranging from 21 to 30 days in jail.

In June, security services allegedly asked the owner of a Beirut hotel not to provide the hotel premises as a venue for an opposition meeting. The opposition planned to release the "Beirut Declaration" that called for the application of the Taif accords that ended the civil war, genuine national reconciliation, and national sovereignty.

The Constitution provides for freedom of association, and the Government did not interfere with most organizations; however, it imposed limits on this right. The law requires every new organization to submit a notification of formation to the Ministry of Interior, which issues a receipt. In addition to what is provided by law, the Ministry of Interior imposed on organizations further restrictions and requirements that were not enforced consistently. The Ministry in some cases sent notification of formation papers to the security forces, which then conducted inquiries regarding an organization's founding members. The Ministry may use the results in deciding whether to approve the group. The Ministry at times withheld the receipt, essentially transforming a notification procedure into an approval process. In December 2003, the State Consultative Council ruled in favor of a complaint lodged by a human rights group, ADEL (Justice), and annulled a Ministry of Interior circular that turned the notification process into an approval process. The council ruled that the circular violated the constitutional principle of freedom of association and the law of 1909 that provides for the free incorporation and management of associations without interference by the government. However, in practice, the violations continued at year's end. In January, ADEL launched a campaign for the proper implementation of the association law.

Organizations must invite Ministry representatives to any general assembly where votes are held for by-law amendments or elections are held for positions on the board of directors. The Ministry also required every association to obtain its approval for any change in by-laws; failure to do so could result in the dissolution of the association.

The Cabinet must license all political parties. The Government scrutinized requests to establish political movements or parties and to some extent monitored their activities. The Army Intelligence Service monitored the movements and activities of members of opposition groups (*see* Section 1.f.).

During the year the Government granted licenses to several political parties.

The Government closely monitored groups critical of Syrian policies, and their members were subject to harassment and arrest by the Government.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, there were some restrictions. Discrimination based on religion is built into the system of government. The Government subsidized all religions, and all Muslim religious judges received monthly salaries from the Government.

There is no state religion; however, politics are based on the principle of religious representation, which was applied to every aspect of public life.

A group that seeks official recognition must submit its dogma and moral principles for government review to ensure that such principles did not contradict popular values and the Constitution. The group must ensure that the number of its adherents is sufficient to maintain its continuity.

Alternatively, religious groups may apply to obtain recognition through existing religious groups. Official recognition conveys certain benefits, such as tax-exempt status and the right to apply the recognized religion's codes to personal status matters. Each recognized religious group has its own courts for family law matters, such as marriage, divorce, child custody, and inheritance. State recognition is not a legal requirement for religious worship or practice. For example, although Baha'is, Buddhists, Hindus, and some evangelical denominations were not recognized officially, they were allowed to practice their faith without government interference; however, their marriages, divorces, and inheritances in the country were not recognized under the law.

Protestant evangelical churches are required to register with the Evangelical Synod, which represents those churches to the Government. Representatives of some churches have complained that the Synod has refused to accept new members since 1975, thereby crippling their clergy's ability to administer to communities with their beliefs. The last time a group was registered was the Coptic Church in 1997. Other

groups, such as the Pentecostal Church, encountered difficulty in registering. The Pentecostal Church applied for recognition from the Evangelical Sect, but the leadership of the Evangelical Sect refused to register new groups in contravention of Lebanese law. The Pentecostal Church is pursuing recourse through the Ministry of Interior; however, at year's end, it was still not registered.

The unwritten "National Pact" of 1943 stipulates that the President, the Prime Minister, and the Speaker of Parliament be a Maronite Christian, a Sunni Muslim, and a Shi'a Muslim, respectively. The 1989 Taif Accord, which ended the country's 15-year civil war, reaffirmed this arrangement, but resulted in increased Muslim representation in Parliament and reduced the power of the Maronite President. The LAF, through universal conscription and an emphasis on professionalism, significantly reduced the role of confessionalism (or religious sectarianism) in the armed forces. Christians and Muslims were represented equally in the Parliament. Seats in the Parliament and Cabinet and desirable posts in the civil service were distributed proportionally among the 18 recognized groups (*see* Section 3).

The Government required that religious affiliation be encoded on national identity cards, but not on passports.

Many family and personal status laws discriminated against women. For example, Sunni inheritance law provides a son twice the inheritance of a daughter. Although Muslim men may divorce easily, Muslim women may do so only with the concurrence of their husbands. There is no law that permits civil marriages, although such ceremonies performed outside the country were recognized by the Government. Only religious authorities may perform marriages.

There were no legal barriers to proselytizing; however, traditional attitudes and edicts of the clerical establishment strongly discouraged such activity. In 2002, there were reports that members of the Maronite Christian community in Kesirwan, with the knowledge of local clergy, occasionally verbally harassed church leaders and persons who attended an unrecognized Protestant evangelical church.

The Arab-Israeli conflict and Israel's occupation of the southern part of the country nurtured a strong antipathy toward Israelis, and Lebanese media often reflected that sentiment. Hizballah, through its media outlets, regularly directed strong rhetoric against Israel and its Jewish population and characterized events in the region as part of a "Zionist conspiracy."

The television series, Ash-Shatat ("The Diaspora"), which centered on the alleged conspiracy of the "The Protocols of the Elders of Zion" to dominate the world, was aired in October and November 2003 by the Lebanon-based satellite television network Al-Manar, owned by Hizballah.

Writing a new curriculum for the public schools was one of the requirements included in the Taif Accord of 1989 that ended the country's civil war. The new curriculum, which began to be implemented during the year, included anti-bias and tolerance education. There is no specific reference to or designation of crimes as hate crimes in legislation.

In December 2002, a bomb blast destroyed a mosque and shrine in Anjar near the border with Syria but injured no one. The shrine reportedly was 800 years old and a popular pilgrimage site for Sunni Muslims. Local residents stated that a Muslim charitable endowment that owned the mosque grounds had been involved in long-running disputes with local persons over land ownership in the area. Authorities investigated the attack; however, at year's end, no juridical action had been taken. Also at year's end, no one had been arrested in connection with the 2002 bombing of a Greek Orthodox church in Tripoli and the Saint Elias Maronite church in Sidon and the burning of a mosque.

Also in 2002, a Sunni army conscript shot a Christian conscript. The security forces chased the culprit and killed him in an exchange of gunfire. Security forces arrested a Sunni cleric associated with stimulating the attack and charged him with inciting confessional violence in connection with the incident; however, he was released without prosecution.

During 2002, an American citizen missionary affiliated with the Christian and Missionary Evangelical Alliance was killed in Sidon. No group claimed responsibility for the killing, but on September 22, the Prosecutor General said that members of the al-Qaeda played a role in the assassination (*see* Section 1.a.).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice; however, there were some limitations. The law prohibits travel to Israel. The LAF and Syrian troops maintained checkpoints throughout much of the country. All men between 18 and 21 years of age are subject

to compulsory military service and are required to register at a recruitment office and obtain a travel authorization document before leaving the country. Married women can obtain a passport without their husband's signature and approval. Spouses may obtain passports for their children who are less than 7 years of age after obtaining the approval of the other spouse. To obtain a passport for a minor child between 7 and 18 years, the father or legal guardian needs to sign the request to obtain a passport (*see* Section 5).

The law does not provide for forced exile, and it was not practiced regularly.

There were no legal restrictions on the right of citizens to return to the country. However, many émigrés were reluctant to return for a variety of political, economic, and social reasons. The Government encouraged the return to their homes of over 600,000 persons internally displaced during the civil war. Although some persons began to reclaim homes abandoned or damaged during the war, the vast majority had not attempted to reclaim and rebuild their property. The resettlement process was slowed by tight budgetary constraints, destroyed infrastructure, political feuds, a lack of schools and economic opportunities, and the fear that physical security still was inadequate in some parts of the country.

In 2000, approximately 6,000 SLA militiamen and their families fled to Israel; approximately 3,000 eventually returned to the country. Of the former SLA personnel who returned, all received prison sentences (*see* Section 1.e.). The Government continued to welcome SLA militia to return to the country, but stated they would face trial.

Most refugees were Palestinians. The U.N. Relief and Works Agency (UNRWA) reported that the number of Palestinian refugees in the country registered with the UNRWA was approximately 390,000. This figure, which represented refugees who arrived in 1948 and their descendents, was presumed to include many thousands who reside outside of the country. Most experts estimated that the actual number in the country was between 150,000 and 200,000. According to SG records, the number of registered Palestinian refugees was approximately 418,000. Most Palestinian refugees were unable to obtain citizenship and were subject to governmental and societal discrimination, particularly in the area of employment; however, Palestinian women who married Lebanese men could obtain citizenship (*see* Section 5). In May 2003, the State Consultative Council invalidated the 1994 naturalization decree in which several thousand Palestinian nationals were naturalized. As a result, approximately 4,000 cases, some of which are families including several siblings, will lose their Lebanese citizenship. The Council referred the issue to the Ministry of Interior to review the files and decide their legal status. The Ministry continued to review the files; however, it had not issued a decision by year's end.

The Government issued travel documents to Palestinian refugees to enable them to travel and work abroad. The Government did not issue visitors' visas to Jordanian nationals who were born in the country and were of Palestinian origin.

On several occasions, Hizballah operatives interfered with the freedom of movement of U.N. Interim Forces in Lebanon (UNIFIL) personnel. According to the U.N. Secretary General's report, at year's end, no action had been taken against the 15 Hizballah operatives who injured 3 UNIFIL observers in April 2002, despite government assurances that the perpetrators would be arrested and brought to trial.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. Although the law does not provide for granting refugee status, the Government has found mechanisms to provide assistance. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status to a limited number of Sudanese. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol to approximately 3,000 persons during the year. In September 2003, the SG signed an agreement with the UNHCR recognizing and granting protection to non-Palestinian refugees, providing temporary relief for those seeking determination of refugee status. Those wishing to claim refugee status have to do so within 2 months of arriving in the country. The SG issues residence permits, valid for 3 months, during which time UNHCR must make a refugee status determination. The SG extended residency permits for up to a total of 12 months for those accorded refugee status by UNHCR. The Government granted admission and temporary (6 months) refuge to asylum seekers, but not permanent asylum. The Government generally cooperated with the offices of UNHCR and UNRWA.

According to the UNHCR, there were nearly 2,500 non-Palestinian refugees, primarily Iraqis, Somalis and Sudanese, residing in the country. The SG detained few, and the UNHCR was granted access to them.

On June 6, the 30 Iraqi Kurds who had been stranded in Naquora on the Lebanese-Israeli border were voluntarily repatriated to Iraq after 3 years spent in limbo. The return was organized in coordination with UNHCR, the U.N., the SG, and foreign embassies.

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

The Constitution provides that citizens have the right to change their government in periodic free and fair elections; however, Syrian influence in local politics is a practical barrier to the exercise of this right. Lack of control over parts of the country, defects in the electoral process, and corruption in public office significantly restricted this right.

The Constitution provides that elections for the Parliament must be held every 4 years. In turn, the Parliament elects the president every 6 years. The president and the Parliament nominate the prime minister, who, with the president, chooses the Cabinet. According to the unwritten National Pact of 1943, the president must be a Maronite Christian, the prime minister a Sunni Muslim, and the Speaker a Shi'a Muslim (*see* Section 2.c.).

The parliamentary elections in 2000 showed fewer incidents of voter fraud and tampering with ballots than previous elections; however, the process was flawed with serious shortcomings, including Syrian government influence on the electoral law and candidate selection, progovernmental media manipulation, and improper activities of security services.

In May, municipal elections were held in approximately 750 municipal boards. Voter turnout was high in most villages and cities with the exception of Beirut where participation was low. Voting was orderly with no reports of major disturbance or fraud.

On September 3, amid evidence of heavy Syrian manipulation and coercion, Parliament voted for a constitutional amendment extending the term of President Lahoud for 3 years; 96 parliamentarians voted in favor of extension, 29 opposed, and 3 were absent from the session.

In September 2003, a by-election held in the Baabda-Aley district for a Maronite Christian seat reportedly took place in a calm atmosphere, without government pressure to vote for a particular candidate or government interference in campaigning; however, there were a few technical irregularities.

There was a widespread perception of corruption at all levels of government, including foreign involvement, however, no steps were taken to address the problem.

There are no laws regarding public access to government documents, either allowing or denying access. In practice, the Government does not respond to requests.

Women have the right to vote, and there are no legal barriers to their participation in politics; however, there were significant cultural barriers. Prior to October, no woman had held a Cabinet position; however, at that juncture, two women were named to the Cabinet. Since 1992, there have been only 3 women in the 128-seat Parliament. As the political system is based on confessionalism, all parliamentary seats are assigned by religious group. Even the smallest officially recognized confessions are allotted at least two seats in Parliament.

Palestinian refugees had no political rights (*see* Section 5). An estimated 17 Palestinian factions operated in the country and were generally organized around prominent individuals. Most Palestinians lived in refugee camps controlled by one or more factions. Refugee leaders were not elected, but there were "popular committees" that met regularly with UNRWA and visitors.

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

Several local human rights groups generally operated freely without overt government restriction, including the Lebanese Association for Human Rights, the Foundation for Human and Humanitarian Rights-Lebanon, and the National Association for the Rights of the Disabled, investigating and publishing their findings. In general, government officials were cooperative, except when some of these groups sought to publicize the detention in Syria of hundreds of citizens. The bar association and other private organizations regularly held public events that included discussions of human rights issues. Some human rights groups reported harassment and intimidation by government, Syrian, or Hizballah forces.

The Government generally cooperated with international NGOs and met with them during the year. In 2002, the U.N. High Commissioner for Human Rights met

with senior government officials. The ICRC and AI maintained offices in the country. During the year, government officials discussed human rights problems with representatives of foreign governments and NGOs.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equality among all citizens; however, in practice, some aspects of the law and traditional beliefs discriminated against women. Although the law reserves a percentage of private sector and government jobs to persons with disabilities, there were few accommodations made for them. Discrimination based on race, language, or social status is illegal and was not widespread among citizens; however, foreign domestic servants often were mistreated. There was credible evidence that foreign domestic servants suffered physical abuse, had pay withheld or unfairly reduced, or were forced to remain locked within their employer's home for the duration of their contracts.

Women.—The law does not specifically prohibit domestic violence and domestic violence against women was a common problem. There were no authoritative statistics on the extent of spousal abuse; however, most experts agreed that the problem affected a significant portion of the female population. Cases reported were believed to be only a fraction of the actual number. Despite a law prohibiting battery with a maximum sentence of 3 years in prison for those convicted, some religious courts legally may require a battered wife to return to the house in spite of physical abuse. Many women were compelled to remain in abusive marriages because of social and family pressures. Possible loss of custody of children and the absence of an independent source of income also prevented women from leaving their husbands.

The Government had no separate program to provide medical assistance to battered women; however, it provided legal assistance to victims who could not afford it regardless of their gender. In most cases, police ignored complaints submitted by battered or abused women. A local NGO, the Lebanese Council to Resist Violence Against Women, worked actively to reduce violence against women by offering counseling and legal aid and raising awareness about domestic violence.

Foreign domestic servants often were mistreated, abused, and in some cases, raped or placed in slavery-like conditions (*see* Section 5, Trafficking). Asian and African female workers had no practical legal recourse available to them because of their low status, isolation from society, and because the labor laws did not protect them (*see* Section 6.e.). Because of such abuse, the Government prohibited foreign women from working if they were from countries that did not have diplomatic representation in the country.

The law prohibits rape, and the minimum sentence for a person convicted of rape is 5 years in prison. The minimum sentence for a person convicted of raping a minor is 7 years. During the year, the courts issued several sentences in cases involving rape; most offenders received 5 to 7 years in jail.

The legal system was discriminatory in its handling of "honor crimes." According to the Penal Code, a man who kills his wife or other female relative may receive a reduced sentence if he demonstrates that he committed the crime in response to a socially unacceptable sexual relationship conducted by the victim. For example, while the Penal Code stipulates that murder is punishable by either a life sentence or the death penalty, if a defendant can prove it was an honor crime, the sentence is commuted to 1 to 7 years imprisonment. Several honor crimes are reported in the media every year. No person has been convicted in a case legally considered an honor crime.

The 1931 law on prostitution requires that brothels be licensed and that sex workers be tested regularly for disease. The law remains on the books and technically in effect. However, government policy since the late 1960s was to stop issuing new licenses for brothels in an attempt to gradually eliminate legal prostitution in the country; however, as a result of the civil war and the weakness of government institutions, illicit prostitution spread. In practice, most prostitution is unlicensed and illegal. Thousands of foreign women, primarily from Russia and Eastern Europe, traveled to the country to work as "artistes." The SG actively investigates adult clubs employing "artistes" and issues warnings to those that do not comply with regulations regarding employee working schedules and documentary requirements. The country was a destination for trafficked persons, primarily women (*see* Section 5, Trafficking).

The law prohibits sexual harassment; however, it was a widespread problem. Women had varying employment opportunities in government, medicine, law, academia, the arts, and to a lesser degree, business. However, social pressure against women pursuing careers was strong in some parts of society. Men sometimes exercised considerable control over female relatives, restricting their activities outside of the home or their contact with friends and relatives.

Women may own property but often ceded control of it to male relatives for cultural reasons and because of family pressure.

The law provides for equal pay for equal work for men and women. The law gives women working for the Government the same rights as men in terms of medical coverage and hospitalization, meaning that women serving in government can claim reimbursement for medical coverage, hospitalization, and family allowances in cases when they are single or their husband is unemployed or does not otherwise have coverage.

Only men may confer citizenship on their spouses and children. Accordingly, children born to citizen mothers and foreign fathers are not eligible for citizenship. Citizen widows may confer citizenship on their minor children.

Children.—The plight of children was a growing concern for the Government. Education was free in public schools and compulsory until age 13. However, public schools generally were inadequate, lacking proper facilities, equipment and trained staff. A 2003 study indicated that 70 percent of Arabic teachers in public schools were not sufficiently literate in Arabic. The cost of private education was a significant problem for the middle and lower classes. UNICEF reported that in the 2000 school year, approximately 85 percent of children between the ages of 3 and 5, and approximately 98 percent of children between the ages of 7 to 11 were enrolled in school. In some families with limited incomes, boys received more education than girls. The illiteracy rate was approximately 11.6 percent. It was 7.7 percent among men and 15.4 percent among women. An undetermined number of children were neglected, abused, and exploited. There are periodic reports that parents force children to beg in the streets or work in the fields to help support the family. Poor children often were compelled by their parents to seek employment and often took jobs that jeopardized their safety (*see* Section 6.d.). The normal procedure for adoption was through religious homes or institutions authorized to arrange adoption; however, the demand to provide infants for adoption abroad resulted in illegal international adoptions. There were no statistics available concerning the prevalence of the illegal adoption of infants. The Government did not have specific child protection laws to remove children from abusive situations and did not grant NGOs adequate legal standing to litigate on behalf of abused minor children.

Again, during the year, NGO's throughout the country reported that child prostitution was a problem. The authorities discovered and broke up three child prostitution rings. In two of the cases, the perpetrators were charged with facilitation, in the third, with child prostitution. At year's end, the cases were pending prosecution.

Trafficking in Persons.—Trafficking in persons was a problem. The law does not specifically prohibit trafficking in persons. The Penal Code stipulates that, "any person who deprives another of freedom either by abduction or any other means shall be sentenced to temporary hard labor"; however, during the year, the Government did not apply this code to trafficking cases. Prostitution was legal and regulated by the Government. The country was a destination for African and Asian women, contracted as household workers, and East European and Russian women, contracted as dancers in adult clubs. Evidence indicates that many of these women are coerced or recruited into prostitution once in the country. Most of these women came voluntarily with legitimate work permits, but an unknown number entered the country illegally, and many of those with work permits ended by working illegally. Based on complaints registered with embassies, NGOs, and the Government, members of these groups often found themselves in coercive work situations with little practical legal recourse.

If forced prostitution or forced rendering of sexual services occurred as a result of an abduction, the Penal Code stipulates that the abductor be sentenced to at least 1 year in prison; however, this law was applied inconsistently. During the year, the media reported upwards of 60 cases of suspects sentenced on charges of forced prostitution.

Many women became illegal workers because their employers did not renew their work and residency permits. Unscrupulous employers sometime falsely accused the employee of theft to relinquish responsibility for the employee as well as the taxes and airline ticket home (*see* Section 6.e). Restrictions of movement and withholding of passports were common practice. A small number of exploited foreign workers won cases against their employers. Nonjudicial action resolved the majority of these cases. As a result of that process, workers frequently were repatriated without further judicial action on their cases. A few cases were referred to the judiciary for further action, although the Government took minimal steps to prosecute traffickers.

Among cases of abuse reported to one NGO dealing with migrant worker abuse, the Government took the following actions: 23 were dropped for insufficient evi-

dence; at year's end, 8 were in the process of administrative settlement between the victim and the employer or agent; in 2 cases, the victims did not want to pursue the matter; the status of 3 had not been determined; and 5 were being actively pursued or prosecuted.

In addition, four Filipinas working as migrants died during the year. In the case of Herra Olandres, who died on August 24, two medical reports acknowledged signs of rape 24 hours prior to her death. At year's end, the case was under investigation by the Detectives' Bureau of the ISF. In the case of Luz Pacuan, who died on May 8, the file was closed because the presiding judge considered the death accidental. The Government closed the case of Catherine Bautista, who died on May 5, finding no evidence that her employer sexually abused her. The case of Luella Montenegro, who died on February 25, is still under investigation. The press reported that three of the four women were believed to be attempting to flee abusive work environments when they died.

In April, the SG closed a nightclub at which there were 60 illegal Ethiopian migrant workers; 18 were arrested for engaging in prostitution.

In August, the SG closed two agencies bringing migrant workers into the country illegally. One proprietor was indicted; prosecution is pending. In February, two other such agencies were closed; however, there is no report of prosecutions stemming from these closures.

In October 2003, a judge sentenced an employer to 3 months' imprisonment and ordered him to pay approximately $500 (800,000 Lebanese pounds) in compensation for failing to pay the salary of his Ethiopian maid. The judge exempted him from imprisonment in exchange for paying an additional penalty of $200 (300,000 Lebanese pounds) and $500 (800,000 Lebanese pounds) for all other expenses related to the case.

During 2003, 131 suspects were arrested for smuggling persons. Authorities also closed 5 drinking establishments and a massage parlor and issued 51 warnings to 30 adult clubs for noncompliance with regulations, including prostitution.

The country has made modest progress in protecting victims of trafficking. The Government did not provide foreign workers with relief from deportation, shelter, or access to legal, medical or psychological services; however, the Government cooperated with NGOs and allowed them access to detention facilities. In November 2003, the Ministry of Labor required employers to provide higher-value insurance to cover repatriation expenses of trafficking victims. A number of NGOs provided legal assistance and counseling to trafficking victims at no cost to the victims.

During 2003, the Ministry of Labor enacted regulations defining employment agencies and household employers' responsibilities with regard to the treatment of domestics.

The Government has taken some steps in the area of prevention. In January, the government prohibited advertisements offering the services of foreign maids. However, this regulation is not uniformly applied.

In September, the Ministries of Justice and Interior published pamphlets, which defined trafficking, and informed potential victims on how to contact embassies, the ISF, the Red Cross, and NGOs for assistance. The pamphlets are being distributed to migrant workers upon arrival at Beirut International Airport.

During 2003, the Government signed a protocol of understanding with the Sri Lankan Ministry of Labor to ensure better working conditions for Sri Lankan workers and to provide legally for their rights.

Persons With Disabilities.—Discrimination against persons with disabilities continued. For example, the civil service board, which is in charge of recruiting government employees, refused to receive application from disabled persons. The Disability Law mandates disabled access to buildings; however, the Government failed to take steps to amend building codes to conform to the law. Approximately 100,000 persons became disabled during the civil war. Families generally cared for persons with disabilities. Most efforts to assist persons with disabilities were made by approximately 100 private organizations. These organizations were relatively active, although poorly funded.

The law on persons with disabilities stipulates that at least 3 percent of all government and private sector positions should be filled by persons with disabilities, provided that such persons fulfill the qualifications of the position; however, there was no evidence that the law was enforced in practice.

In 2002, joint committees composed of the National Committee for the Disabled and the Ministries of Health, Labor, and Education were formed to implement the law on persons with disabilities. In 2002, the Ministry of Finance informed all firms and companies that it would not settle obligations with them unless they proved

that 3 percent of their workforce was composed of persons with disabilities; however, the Ministry failed to enforce this decision in practice.

Many persons with mental disabilities are cared for in private institutions, many of which are subsidized by the Government.

National/Racial/Ethnic Minorities.—According to the UNRWA, an estimated 390,000 Palestinian refugees were registered in the country (*see* Section 2.d.); however, it was believed that approximately 150,000 to 200,000 Palestinians actually resided in the country. Most Palestinian refugees lived in overpopulated camps that suffered repeated heavy damage as a result of fighting during the civil war, during the Israeli invasion of the country, and during on-going camp feuds. The Government generally prohibited the construction of permanent structures in the camps on the grounds that such construction encouraged the notion of permanent refugee settlement in the country. Refugees feared that the Government might reduce the size of the camps or eliminate them completely. Very few Palestinians received work permits, and those who found work usually were directed into unskilled occupations. Palestinian incomes continued to decline. The law prohibited Palestinian refugees from working in 72 professions.

Palestinian refugees do not have the right to own property in the country. Palestinians no longer may purchase property and those who owned property prior to 2001 will be prohibited from passing it on to their children. The Parliament justified these restrictions on the grounds that it was protecting the right of Palestinian refugees to return to the homes they fled after the creation of the state of Israel in 1948. Other foreigners may own a limited-size plot of land, but only after obtaining the approval of five different district offices. The law applies to all foreigners, but it was applied in a manner disadvantageous to the 25,000 Kurds in the country. The Government did not provide health services or education to Palestinian refugees, who relied on UNRWA for these services.

Palestinian children reportedly were forced to leave school at an early age to help earn income. The U.N. estimated that 18 percent of street children in the country were Palestinian. Poverty, drug addiction, prostitution, and crime reportedly were increasing in the camps, although reliable statistics were not available.

Other Societal Abuses and Discrimination.—The law prohibits unnatural sexual intercourse, which is punishable by up to 1 year in prison; however, homosexuality is not specifically illegal. Citizens' sexual preferences reflect societal norms, not legal rulings. There are no discriminatory laws against persons with HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The law provides that all workers, except government employees, may establish and join unions, and workers exercised this right in practice. There are no reasonable estimates as to the number of persons in the active labor force, but it is estimated that 5 to 7 percent of workers were members of some 450 to 500 labor unions and associations. Most of these unions formed federations. At year's end, 37 federations were voting members of the General Confederation of Labor (GCL). However, 24 of the 37 confederations, all created in the 1990s, remained "virtual," that is, created by political interest groups to offset the votes of the 13 established labor confederations that actually represent workers. The GCL remained the only organization recognized by the Government as an interlocutor that represented workers.

Antiunion discrimination appeared to be widespread. In October, two labor leaders were fired from the Lebanese Postal Service for union activities. Labor unions interceded on numerous occasions to address the firing of unionists from companies. On December 15, the head of the GCL participated in a sit-in to protest firings at the Postal Service.

Palestinian refugees may organize their own unions; however, because of restrictions on their right to work, few Palestinians participated actively in trade unions.

Unions were free to affiliate with international federations and confederations, and they maintained a variety of such affiliations.

b. The Right to Organize and Bargain Collectively.—The right of workers to organize and to bargain collectively exists in law and practice. Most worker groups engaged in some form of collective bargaining with their employers. Stronger federations obtained significant gains for their members and on occasion assisted nonunion workers. There were no government mechanisms to promote voluntary labor-management negotiations, and workers had no protection against antiunion discrimination.

The law provides for the right to strike. In May, the General Confederation of Labor called for a general strike to protest the high price of fuel and gasoline. The

demonstration become violent, and clashes with the security forces resulted in the death of five persons (*see* Section 2.b.).

In December 2003, Lebanese University (LU) professors and students staged the largest demonstration in the country since 1992 when more than 15,000 people marched to protest threats to LU's autonomy, administrative shortcomings, and shrinking budgets.

In October 2003, the GCL called a general strike to protest high unemployment, deteriorating social benefits, high taxes, planned privatization, and frozen minimum wages. An estimated 4,000 to 8,000 people participated in a peaceful march.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law does not specifically prohibit forced or compulsory labor, including by children; however, articles within the law prohibit behavior that constitutes forced or compulsory labor. These include article 569 of the penal code, which prohibits deprivation of personal freedom, clause 5 of article 569, which prohibits using a person deprived of personal freedom to "perform a task," and article 11 of the labor code, which limits the scope of work agreements. The country adheres to International Labor Organization conventions 29 and 105 that prohibiting forced labor, and these conventions have the force of law. Nevertheless, children, foreign domestic workers, and other foreign workers sometimes were forced to remain in situations amounting to coerced or bonded labor (*see* Sections 5 and 6.e.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor was a problem. The minimum age for child employment is 14 years. Under the law, minors are defined as children aged between 14 and 18 years. The law prohibits the employment of juveniles before they undergo a medical exam to ensure their fitness for the job for which they are hired. The labor code prohibits employment of workers under the age of 18 for more than 6 hours per day, and requires 1 hour of rest if work is more than 4 hours. The law also entitles juveniles to 21 days of paid annual leave.

Juveniles are prohibited from working between the hours of 7 p.m. and 7 a.m. The law prohibits juveniles under the age of 17 from working in jobs that jeopardize their health, safety, or morals. It also prohibits the employment of juveniles under 16 in industrial jobs or jobs that are physically demanding or harmful to their health. The Ministry of Labor was responsible for enforcing these requirements; however, it did not apply the law rigorously. In 2002, a law was passed regarding the protection of juveniles exposed to danger. In September, the Government took steps to implement the law. In cooperation with the U.N. Office for Drug Control and Crime Prevention, the Government inaugurated the Center for Juvenile Victims of Physical Abuse. As such, juveniles will no longer be interrogated at police stations but rather at the center, which is equipped according to international norms, in the presence of a social worker.

According to the final report on the "State of the Children in Lebanon 2000" released by the Central Statistics Administration in 2002 in collaboration with UNICEF, the percentage of working children between the ages of 10 and 14 was 1.8 percent. The percentage of working children between the ages of 15 and 18 was 11.3 percent. According to the report, 90 percent of child laborers were not covered by any health insurance.

e. Acceptable Conditions of Work.—The Government set a legal minimum wage; during the year, it was approximately $200 (300,000 Lebanese pounds) per month. The law was not enforced effectively in the private sector. The minimum wage was insufficient to provide a decent standard of living for a worker and family. Trade unions attempted to ensure the payment of minimum wages in both the public sector and the large-scale private sector.

The labor law prescribes a standard 6-day workweek of 48 hours, with a 24-hour rest period per week. In practice, workers in the industrial sector worked an average of 35 hours per week, and workers in other sectors worked an average of 30 hours per week. The law includes specific occupational health and safety regulations. Labor regulations require employers to take adequate precautions for employee safety. The Ministry of Labor was responsible for enforcing these regulations, and it did so unevenly. Labor organizers reported that workers did not have the right to remove themselves from hazardous conditions without jeopardizing their continued employment.

Foreign domestic workers, mostly of Asian and African origin, often were mistreated, abused, raped, or placed in situations of coerced labor or slavery-like conditions (*see* Section 5). Recruitment agencies and employers generally signed employment contracts requesting a foreign worker; the prospective foreign workers rarely

were party to such contracts or, if they were, might not know what the contract stipulated because it was written in Arabic.

Government regulations prohibit employment agencies from withholding foreign workers' passports for any reason. However, in practice, it continued to be common for employment agencies and household employers to withhold maids' passports.

During 2003, the Ministry of Labor enacted new regulations defining employment agencies and household employers' responsibilities with regard to the treatment of domestics. The Ministry of Labor regularly met with source country embassies to ensure that foreign laborers and domestic workers were aware of the new employment agency regulations and of the Ministry of Labor's complaint office for reporting violations.

The labor laws do not protect foreign domestic workers. Domestic workers often worked 18 hours per day and, in many cases, did not receive vacations or holidays. There was no minimum wage for domestic workers; their average wage was approximately $100 (150,000 Lebanese pounds) per month. Victims of trafficking or abusive labor situations may file civil suits or seek legal action, but most victims, often counseled by their embassies or consulates, settled for an administrative solution, which usually included monetary compensation and repatriation. The Government does not release information on legal actions filed, but NGOs have indicated that fewer than 10 legal actions were undertaken during the year, with only 1 perpetrator believed to be in prison.

The Ministry of Labor referred cases of abuse reported to its complaint office to law enforcement for investigation and prosecution. It also enacted regulations prohibiting employment agencies from withholding foreign workers' passports for any reason and specifically defined sponsors' responsibilities with regard to the treatment of domestics. In 2003, 15 employment agencies were closed for noncompliance with these regulations, and closures of fraudulent employment agencies abusing foreign migrant workers continued during the year.

LIBYA

The Great Socialist People's Libyan Arab Jamahiriya[1] is an authoritarian regime ruled by Colonel Mu'ammar Al Qadhafi since 1969, when he led a military coup that overthrew King Idris I. Borrowing from Islamic and pan Arab ideas, Qadhafi created a political system that rejects Western democracy and political parties and claims to have established a "third way" superior to capitalism and communism. The country's governing principles are derived predominantly from Qadhafi's "Green Book" Ideology. In theory, the citizenry rules the country through a series of popular congresses, as laid out in the 1969 Constitutional Proclamation and the 1977 Declaration on the Establishment of the Authority of the People; however, in practice, Qadhafi and his inner circle monopolize political power. According to the U.N. Development Program, the legislative branch is composed of the unicameral General People's Congress (GPC) with 760 members elected indirectly for a 3 year term. The most recent election or "renewal" of the GPC was in March. Revolutionary Committees are nominally extra governmental organizations that regulate many aspects of citizens' lives; however, in practice, the Government controls the committees. The judiciary is not independent of the Government. Government corruption was a problem.

The country maintains an extensive security apparatus that includes police and military units, multiple intelligence services, local Revolutionary Committees, People's Committees, and "Purification" Committees. The result is a multi layered, pervasive surveillance system that monitors and controls the activities of individuals. The civilian authorities maintain effective control of the security forces. Security forces have the authority to impose sentences without trial, and the various security forces committed numerous, serious human rights abuses.

The country has a centrally directed economy, with a growing private sector. The population is approximately 5.7 million. The Government exercised complete control over the country's oil resources, which accounted for approximately 95 percent of export earnings and an estimated 23 percent of the gross domestic product. The estimated growth rate was 2.4 percent. The Government's mismanagement of the econ-

[1] The U.S. Government re-established direct diplomatic relations with Libya in June 2004. Accordingly, some of the information contained in this report is based to a large extent on nongovernmental sources.

omy has led to a decline in the standard of living for most of its citizens in recent years.

On March 6, in an effort to address economic shortcomings, the GPC passed numerous laws aimed at liberalizing the economy. Foreign governments lifted travel, commercial, and economic sanctions against the country during the year. However, the country remained subject to sanctions related to past sponsorship of terrorism.

The Government's human rights record remained poor, and the Government continued to commit numerous, serious abuses. Citizens did not have the right to change their government. Prison conditions were poor. Security forces arbitrarily arrested and detained persons, and prisoners were held incommunicado. Many political detainees were held for years without charge or trial. The Government controlled the judiciary, and citizens did not have the right to a fair public trial. Official impunity was a problem. The Government used summary judicial proceedings in many cases. The Government infringed on citizens' privacy rights; restricted freedom of speech, press, assembly, association, and religion; imposed limits on freedom of movement; continued to ban political parties; and continued to prohibit the establishment of independent human rights organizations. Domestic violence against women was a problem. Traditional attitudes and practices continued to discriminate against women. There were reports of trafficking in persons. The Government continued to repress banned Islamic groups and discriminated against ethnic and tribal minorities. The Government restricted labor rights, denied basic worker rights, and discriminated against foreign workers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—According to available information, there were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents; however, poor prison conditions have contributed to an unknown number of deaths in custody (*see* Section 1.c.).

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

During the year, tensions again flared between the Government and the Government of Lebanon over accusations of the country's responsibility for the 1978 disappearance of Lebanese Shi'a leader Imam Musa Al Sadr and two of his companions. In October, Italian authorities handed over to the Lebanese Government passports allegedly belonging to Sadr and one of his companions. The media subsequently reported that the Lebanese Government planned to question Qadhafi in Lebanon about the case. There were no further developments by year's end.

c. Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.—The law does not prohibit such practices, and there were reports that government officials employed them. Security personnel reportedly routinely tortured prisoners during interrogations or as punishment. Government agents reportedly detained and tortured foreign workers, particularly those from sub-Saharan Africa. Reports of torture were difficult to corroborate because many prisoners were held incommunicado.

The reported methods of torture included: chaining prisoners to a wall for hours; clubbing; applying electric shock; applying corkscrews to the back; pouring lemon juice in open wounds; breaking fingers and allowing the joints to heal without medical care; suffocating with plastic bags; deprivation of food and water; hanging by the wrists; suspension from a pole inserted between the knees and elbows; cigarettes burns; threats of being attacked by dogs; and beating on the soles of the feet.

According to Amnesty International (AI), the foreign defendants, who were charged with deliberately infecting children in a hospital in Benghazi, reported that they had been tortured through electric shock and beatings to extract their confessions. Two of the police officers accused of inflicting the torture denied the allegations. On May 6, the Benghazi court determined it did not have jurisdiction to try the officers accused of torture in the health workers' case (*see* Section 1.e.).

In April, Qadhafi called for the abolition of torture and urged the GPC to ratify anti torture agreements; however, no actions were taken during the year.

According to foreign diplomats, prison conditions generally were poor. In February, the Government permitted AI to visit the country following a 15 year absence. The AI delegation visited some prisons, and spoke with some inmates they considered to be "prisoners of conscience." The authorities prevented the group from seeing selected prisoners despite repeated requests. The Government did not permit other human rights monitors to visit the prisons.

During its visit, AI raised concerns with the Government about the health of 86 men in Abu Salim prison who undertook a 7 day hunger strike, in October 2003, to protest lengthy delays in their appeal process and to call for the abolition of the

People's Court. The Abu Salim detainees were believed to be members of the Libyan Islamic Group, also known as the Muslim Brotherhood. At least eight of the hunger strikers reportedly were taken to a hospital, but there were no details about any medical attention afforded to the others.

Security forces reportedly subjected political detainees to cruel, inhumane, or degrading conditions, and denied adequate medical care, which led to several deaths in custody.

In at least three cases known to AI, the Government issued death certificates that stated the prisoners had died of natural causes, without further explanation or any evidence. In each case reported to AI, the authorities refused to return the detainee's body to the family.

Male and female prisoners were held separately, and juveniles were separated from adults. Pretrial detainees and convicts were held together in the same facilities. More than half the prisoners in the country were reportedly pretrial detainees. Prison officials frequently held pretrial detainees for long periods of time (*see* Section 1.d.).

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the Government did not observe these prohibitions. Security forces arbitrarily arrested and detained citizens. The Government held many political detainees incommunicado for unlimited periods in unofficial detention centers controlled by members of the Revolutionary Committees.

Detainees can be held after arrest for up to 48 hours at a police station. They must then be brought before a prosecutor, who can hold them for 6 days under investigation. Detainees must then be brought before a judicial authority at regular intervals of 30 days to renew their detention order.

The Government reportedly held hundreds of political detainees, many associated with banned Islamic groups, in prisons throughout the country, but mainly in the Abu Salim prison in Tripoli. Some human rights organizations estimated the number of political detainees to be as high as 2,000. Many detainees reportedly have been held for years without charge. Hundreds of other detainees may have been held for periods too brief (3 to 4 months) to permit confirmation by outside observers.

By law, bail must be set for pretrial detainees, detainees must have access to counsel, and public defenders represent those who cannot afford a private attorney. Detainees reportedly did not receive information on their rights to legal representation during interrogation.

On March 12, the Government released Fathi Al Jahmi in response to international pressure. Al Jahmi originally had been sentenced to 5 years imprisonment in 2002 after calling for democratic reforms. On March 26, the Government detained Al Jahmi again, along with his wife, Fawzia Abdullah Gogha, and son, Mohammad. Al Jahmi had given several international media interviews, in which he again called for reform. The Government did not file new charges against Al Jahmi, asserting that his detention was for his own protection. Fawzia Abdullah Gogha and Mohammad were released later. Mohammad reported that Al Jahmi was in poor health, and he did not receive adequate medical treatment. According to AI, the Government denied Al Jahmi access to legal counsel, and his whereabouts remained unknown at year's end.

On April 7, the appeals resumed for 152 Muslim Brotherhood activists. The appeals originally had started in 2002 after sentences were issued ranging from the death penalty to life imprisonment and 10 years imprisonment (*see* Section 1.e.).

The London based newspaper, Al Sharq Al Awsat, reported that the Government arrested human rights activist, Ashur Al Warfalli, on December 8 for issuing a statement against the Government's human rights policy. Al Warfalli's statement called for the release of political detainees, amnesty for exiles and dissidents, and the freedom of expression for all citizens. His whereabouts remained unknown at year's end.

On March 2, the Government pardoned 1,059 prisoners in celebration of the anniversary of the Declaration of the People's Authority.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judiciary was not independent. Security forces had the authority to pass sentences without trial, particularly in cases involving political opposition. The Government used summary judicial proceedings to suppress domestic dissent. Qadhafi was empowered to interfere in the administration of justice by altering court judgments or replacing judges. The judiciary failed to incorporate international standards for fair trials and standards for detention and imprisonment.

The judicial system is composed of a four tiered hierarchy. The Summary Courts hear cases involving misdemeanors of lesser value. The decisions of this court may

be appealed to the Courts of First Instance. These courts are composed of chambers of three judges and have the authority to adjudicate in all civil, criminal, and commercial cases. In addition, the jurors apply the Shari'a principles in cases involving personal status. Cases from the Courts of First Instance may be appealed to the Courts of Appeal, which are composed of panels of three judges. The Shari'a Court of Appeals hears cases from the lower Shari'a court.

The final court of appeal is the Supreme Court, composed of five separate chambers, one each for civil and commercial, criminal, administrative, constitutional, and Shari'a. The Supreme Court sits in chambers of five judges and rules by majority decision. The GPC elects the presiding president and other members of the Supreme Court.

Special revolutionary or national security courts, such as the People's Court, try political offenses. Such trials often are held in secret or even in the absence of the accused. The People's Court system also focuses on administrative, civil, and criminal offences. The court contains its own prosecution service, in addition to courts of first instance (composed of a three judge panel) and courts of appeal (composed of a five judge panel). In April, Qadhafi called for the elimination of the People's Court; however, the court was still in existence at year's end.

The law provides for the presumption of innocence. Defendants must be informed of the charges brought against them, and they have the right to legal counsel; however, defense lawyers automatically are appointed, even if the defendant declines to have one. In some cases involving large numbers of defendants, it is reportedly common for the accused not to know who his or her lawyer is. There is usually very little contact, if any, between the lawyer and client.

On December 1, the People's Court confirmed the sentences of 86 activists, known as the Muslim Brotherhood. In 2002, 2 defendants received death sentences, 73 received life imprisonment, and 11 received 10 years' imprisonment for forming an illegal political organization.

On May 6, a court sentenced to death 6 foreign health workers accused of deliberately infecting 426 children with HIV tainted blood in 1999. The sentences reportedly were based on confessions that the accused made under torture (*see* Section 1.c.). International observers had serious concerns about the lack of investigation into allegations of torture and delays in bringing the case to a conclusion. Appeals still were pending at year's end.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the Government did not respect these prohibitions. The security agencies often disregarded the legal requirement to obtain warrants before entering a private home. They also routinely monitored telephone calls.

The security agencies and the Revolutionary Committees oversaw an extensive network of informants. Foreign observers estimated 10 to 20 percent of the population was engaged in surveillance for the Government. The Government threatened to seize and destroy property belonging to "enemies of the people" or those who "cooperate" with foreign powers. In the past, citizens reported that the Government warned members of the extended family of government opponents that they too risked the severe punishment. Exiles reported that family members of suspected government opponents were harassed and threatened with detention.

The law provides for the collective punishment of families or communities that aid, abet, or do not inform the Government of criminals and oppositionists. Punishments range from the denial of access to utilities (water, electricity, telephone), fuels, food supplies, official documents, participation in local assemblies, and the termination of new economic projects and state subsidies. Collective punishment also can be inflicted on the relatives of individuals, particularly oppositionists, who are convicted of having committed certain crimes. In such cases, the punishment could be expulsion of the family from their homes and demolition of the homes. There were no reports of collective punishment being implemented during the year.

The Purge Law provides for the confiscation of private assets above a nominal amount, describing wealth in excess of such undetermined amounts as "the fruits of exploitation or corruption." During the year, there were no reports of confiscation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech "within the limits of public interest and principles of the Revolution"; however, the Government severely limited the freedoms of speech and of the press, particularly any criticism of Qadhafi or government policy. The Government tolerated some difference of opinion in People's Committee meetings and at the GPC.

On March 26, the Government re detained Fathi Al Jahmi after Al Jahmi spoke out against the regime to the foreign media (*see* Section 1.d.).

On December 8, the Government arrested Ashur Al Warfalli for releasing a statement in which he called for a number of human rights reforms.

The Government prohibited all political activities not officially approved, enacted laws so vague that many forms of speech or expression may be interpreted as illegal, and operated an extensive system of informants that created an atmosphere of self censorship at all levels of society (*see* Section 1.f.).

The Government owned and controlled the print and broadcast media. There were no privately owned radio or television stations. Local Revolutionary Committees published several small newspapers. The official news agency, JANA, was the designated conduit for official views. The Government did not permit the publication of opinions contrary to its policy. Some foreign publications were available; however, the Government routinely censored them and, at times, prohibited their distribution. The publications law governs the operation of the press, reserving all rights for publishing to two public entities: The General Corporation of Press, Professional Unions, and Syndicates, and the Ad dar Al Jamahiriya.

Satellite television was widely available, although foreign programming was censored at times. Internet access was limited due to the existence of a single service provider; however, the number of Internet users increased during the year.

The Government severely restricted academic freedom. Professors and teachers who discussed politically sensitive topics faced the risk of government reprisal.

b. Freedom of Peaceful Assembly and Association.—The law does not provide for the freedom of assembly or association, and the Government severely restricted these rights in practice. Public assembly was permitted only with the Government's approval and in support of the Government's positions.

On April 7, government security forces disrupted a demonstration by members of the Muslim Brotherhood. They were protesting the prolonged detention and adjournment of appeals of 152 members (*see* Section 1.e.).

The Government restricted the right of association; it granted this right only to institutions affiliated with the Government. The formation of groups based on a political ideology was banned (*see* Section 3). Political activity deemed treasonous by the Government is punishable by death. An offense may include any activity that is "opposed to the principles of the Revolution." On December 1, an appeals court upheld the sentences of 86 prisoners convicted in 1998 for establishing a political organization (*see* Section 1.e.).

c. Freedom of Religion.—The law provides for freedom of religion, and the Government generally respected this right with some restrictions. The Government was tolerant of other faiths, with the exception of militant forms of Islam, which it viewed as a threat to the regime. Because the wearing of a beard was associated with fundamentalist Islam, some Muslims reportedly shaved their beards to avoid being harassed by security forces. The Government also controlled mosques and Islamic institutions and heavily censored clerics.

The World Islamic Call Society (WICS) was the outlet for the state approved form of Islam. The Government prohibited Islamic groups whose views were contrary to the authorized teachings. The WICS was responsible for relations with other religions, including Christian churches in the country.

Christian churches operated openly and were tolerated by the authorities; however, the Government imposed a limit of one church per denomination per city. There were no official places of worship for the practitioners of minority religions such as Hinduism, Buddhism, and the Baha'i Faith.

A noncitizen female that marries a Muslim citizen is not required to convert to Islam; however, a noncitizen male must convert to marry a Muslim woman.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, Repatriation, and Exile.—The law does not provide these rights, but the Government generally did not restrict the freedom of movement within the country.

The Government requires citizens to obtain exit permits for travel abroad, and limits their access to hard currency. Authorities routinely seized the passports of foreigners married to citizens upon their entry into the country. A female citizen must have her husband's permission and a male escort to travel abroad (*see* Section 5, Women).

The law does not provide for or prohibit forced exile, and the Government did not impose forced exile as a form of punishment. The Government continued to encourage the return of citizen dissidents abroad, promising to ensure their safety. According to AI, some citizens were subjected to arbitrary arrest and detention upon their repatriation. Students studying abroad reportedly have been interrogated upon their return.

The law prohibits the extradition of political refugees; however, in practice, the Government did not provide protection against refoulement, the return of persons to a country where they feared persecution. There was no established system to deal with refugees and asylum seekers, or national legislation to determine refugee and asylum status. According to the U.N. High Commissioner for Refugees (UNHCR), the Government considers refugees and asylum seekers as "foreigners residing in country without any specific distinction." The country is not a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, it is a party to the Organization of African Unity's Convention Governing the Specific Aspects of Refugee Problems in Africa. The Government has not signed a formal cooperation agreement with the UNHCR, which reported that there were approximately 12,000 urban refugees registered with its Tripoli office and 43,000 total refugees in country.

The Government expelled noncitizens arbitrarily. On July 21, the Government deported more than 110 people to Eritrea who reportedly had fled from military service or evaded conscription. AI reported that they then were held incommunicado in military camps. In August, the authorities deported 76 Eritrean asylum seekers who later reported being mistreated and denied medical attention while in custody. The Government continued to deport family members of suspected al Qa'ida members during the year. In February, the Government extradited a human trafficker to Italy upon the Italian Government's request (*see* Section 5, Trafficking).

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

The law makes no provisions for elections, and citizens do not have the right to change their government. The country's governing principles stem from Qadhafi's "Green Book," which combines Islamic ideals with elements of socialism and pan Arabism. The "Green Book" provides that direct popular rule is the basis of the political system and that citizens play a role in popular congresses; however, Qadhafi, his close associates, and committees acting in his name controlled major government decisions. Corruption and favoritism, based on tribal origin, were major problems that adversely affected government efficiency.

The Government prohibits the creation of and subsequent membership in political parties. The only party structure that exists is the official Arab Socialist Union, created in 1971 to encourage political involvement among citizens. Revolutionary Committees, composed primarily of youths, guarded against political dissent and ensured that citizens followed sanctioned ideology within society. These committees approved all candidates in elections for the GPC.

The people exercise their authority through people's congresses, people's committees, trade unions, vocational syndicates, and the GPC, which is the Parliament. The General People's Committee manages the daily affairs of the Government. Elections occur every 3 years, when the People's Congresses, the local bodies comprised of all citizens, choose their leadership committees. The election process continues up the hierarchy of people's congresses, until the GPC chooses the General People's Committee. The last election of people's congresses took place early in the year.

There was one woman in the 760 seat GPC. One woman occupied a seat in the GPC. There were no women in the cabinet. There was no reliable information on the representation of minorities in the Government.

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

There were numerous charitable associations approved by the Government, and operating in the country; however, the Government prohibited the establishment of independent human rights organizations. Individuals wishing to carry out human rights work were forced to operate abroad due to restrictive laws that imposed imprisonment for forming or joining international organizations without government authorization (*see* Section 2.b.). The government body known as the Libyan Arab Human Rights Committee was not known to have published any reports.

In February, AI visited the country for the first time in 15 years and later published its report "Time To Make Human Rights A Reality," which included recommendations pertaining to detention, the judiciary, and torture. Qadhafi later called for a number of human rights reforms such as the abolition of the People's Court and the abolition of torture. No reforms were implemented by year's end.

During the year, Qadhafi condemned the use of torture by governments and called on all countries to ratify international treaties that ban torture. He also called for continued cooperation with AI and other human rights organizations. However, in December, the Government refused to issue visas to a Human Rights Watch (HRW)

delegation. The HRW observers were scheduled to begin a 3 week visit that would have been the organization's first visit to the country.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, sex, religion, disability, or social status; however, the Government did not enforce effectively these prohibitions, particularly with regard to women and tribal minorities.

Women.—The law prohibits domestic violence, but there was no reliable information on the penalties for punishment. There was little detailed information regarding the extent of violence against women; however, it reportedly remained a problem. Abuse within the family rarely was discussed publicly.

The law prohibits rape. The convicted rapist of a young girl must marry the girl, with her agreement, or serve a prison term of up to 25 years. There was no further information available on punishments for rape.

The law does not prohibit female genital mutilation (FGM). There were reports that FGM may have been performed on girls in remote areas of the country due to a large expatriate community of women from countries where FGM widely was practiced. The law prohibits prostitution; however, the authorities tolerated it.

The 1969 Constitutional Proclamation granted women total equality; however, traditional attitudes and practices continued to discriminate against women. Shari'a law governs inheritance, divorce, and the right to own property. A woman must have the permission of her husband or another close male relative to travel abroad.

The Department of Women's Affairs, under the GPC secretariat, collected data and oversaw the integration of women into all spheres of public life. The General Union of Women's Associations, established by the Government as a network of nongovernmental organizations, addressed women's employment needs. The opportunity for women to make notable social progress increased in recent years; however, lingering traditional restrictions, that discourage women from playing an active role in the workplace, often inhibited employment gains by women. Women comprised 22 percent of the labor force. There were four times as many working women as there were in 1970, according to a report by the National Center for Information and Verification. In general, the emancipation of women was a generational phenomenon. Educational differences between men and women have narrowed; however, a significant proportion of rural women did not attend school and were inclined to instill in their children such traditional beliefs as women's subservient role in society.

Children.—The Government subsidized primary, secondary, and university education, and primary education was compulsory until age 15. Ninety six percent of school age children attended primary school, and most reached at least a 6th grade level. Only 53 percent of girls and 71 percent of boys attended secondary school. The Government subsidized medical care, and it has improved the welfare of children; however, declining revenues and general economic mismanagement have led to cutbacks, particularly in medical services.

Trafficking in Persons.—There was no information available regarding whether the law specifically prohibits trafficking in persons; however, the penal code prohibits prostitution and related offenses, including sexual trafficking.

There were reports of trafficking in persons. Several hundred Moroccan women reportedly were trafficked to the capital to work as prostitutes. The country was also a place of transit for women trafficked from Africa to Central Europe. In previous years, Sri Lankan women also were trafficked through the country. The extent of the Government's efforts to fight trafficking was not clear, but its joint and active collaborations with other affected countries indicated that the country is making significant efforts to fight human trafficking. In February, the Government extradited a major Eritrean human trafficker to Italy, after the Italian Government issued a warrant for her arrest. The Government repeatedly called for the lifting of the European Union (EU) arms embargo, stating that the embargo prevented it from obtaining equipment necessary to fight trafficking. The EU lifted the embargo on October 11.

Persons With Disabilities.—No information was available on any government efforts to assist persons with disabilities.

National/Racial/Ethnic Minorities.—Arabic speaking Muslims of mixed Arab Amazigh ancestry constituted 97 percent of the population. The principal minorities were Amazighs and sub-Saharan Africans. There were frequent allegations of discrimination based on tribal status, particularly against Amazighs in the interior and Tuaregs in the South.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions without previous authorization or excessive requirements, and the Government respected this right in practice. Members of each profession may form their own unions and syndicates to defend their professional rights. Workers may join the National Trade Unions' Federation, which is administered by the People's Committee system; however, the Government prohibited foreign workers from joining this organization. The National Trade Unions' Federation played an active role in the International Confederation of Arab Trade Unions, the Organization of African Trade Union Unity, and the World Federation of Trade Unions.

b. The Right to Organize and Bargain Collectively.—The law does not provide for collective bargaining. The Government must approve all agreements made between unions and employers.

The law does not provide workers with the right to strike, and there were no reports of strikes during the year.

c. Prohibition of Forced or Compulsory Labor.—There was no information regarding whether the law prohibits forced or compulsory labor, including by children, or whether such practices occurred.

There were credible reports that the Government arbitrarily forced some foreign workers into performing subversive activities against their own nationals.

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum age for employment of children was 18 years. There was no information available on the prevalence of child labor, or whether forced or compulsory labor by children was prohibited or practiced (*see* Section 6.c.).

e. Acceptable Conditions of Work.—The labor law defines the rights and duties of workers, including matters of compensation, pension rights, minimum rest periods, and working hours. The legal maximum workweek was 48 hours.

Wages, which are forbidden by the "Green Book" and actually are paid in the form of "entitlements," frequently were in arrears. A public sector wage freeze imposed more than a decade ago continued, particularly in the face of consistently high inflation. The average family lived on $170 (86.9 dinars) a month. Although there was no information available regarding whether the average wage was sufficient to provide a worker and family with a decent standard of living, the Government heavily subsidized rent, utilities, oil, and food staples.

Labor inspectors were assigned to inspect places of work for compliance with occupational health and safety standards. Certain industries, such as the petroleum sector, attempted to maintain standards set by foreign companies. There was no information regarding whether workers may remove themselves from an unhealthy or unsafe work situation without risking employment.

Foreign workers constituted 1.6 million of the workforce; however, the labor law does not accord them equality of treatment. Foreign workers were permitted to reside in the country only for the duration of their work contracts, and they could not send more than half of their earnings to home countries. They were subjected to arbitrary pressures, such as changes in work rules and contracts, and had little option but to accept such changes or to depart the country.

MOROCCO

Morocco is a constitutional monarchy with an elected parliament; however, ultimate authority rests with the King, Mohammed VI, who presides over the Council of Ministers, appoints or approves members of the Government, and may, at his discretion, terminate the tenure of any minister, dissolve the parliament, call for new elections, and rule by decree. The bicameral legislature consists of a lower house, the Chamber of Representatives, which is elected through universal suffrage, and an upper house, the Chamber of Counselors, whose members are elected by various regional, local, and professional councils (members of whom are elected directly). The lower house of parliament also may dissolve the Government through a vote of no confidence. In September 2002, the country held parliamentary elections for the lower chamber that were widely regarded as free, fair, and transparent. In September 2003, elections were held for local government councils. The elections were widely recognized as well administered; the Government limited the participation of the Islamist Party of Justice and Development (PJD). The Constitution provides for an independent judiciary; however, it remained subject to government influence and

corruption. The Government abolished the Ministry of Human Rights in a June cabinet reshuffle and folded human rights responsibilities into the Ministry of Justice.

The security apparatus includes several overlapping police and paramilitary organizations. The National Police (DGSN), the National Intelligence Service (DST), and the Auxiliary Forces are departments of the Ministry of Interior. The Royal Gendarmerie reports to the Ministry of Defense. The Department of Royal Security reports to the Palace. Civilian authorities maintained effective control of the security forces. Some members of the security forces continued to commit serious human rights abuses.

The market based economy was led by a sizable services sector with a strong tourism component, a growing manufacturing sector, a diverse agricultural and fisheries sector, and large phosphate reserves. The population was approximately 28.9 million. Citizens working abroad were a source of substantial remittances. Overall, the gross domestic product was expected to increase by 5.3 percent, and inflation by 1.9 percent for the year. One in five citizens lived in poverty.

Although progress continued in some areas, the human rights record remained poor in other areas. Citizens lacked the full ability to change their government. While citizens may elect representatives to Parliament and to municipal and regional councils, the King has discretionary authority to appoint and dismiss the Prime Minister, and Cabinet, and to dissolve Parliament. The Constitution may not be changed without the King's approval. Since the May 2003 terrorist attacks in Casablanca, authorities detained several thousand persons for possible involvement with terrorist groups and sentenced more than 400. In May 2003, an antiterrorist law passed by the Parliament, very broadly defined terrorism as an act or acts intended to create fear and discord in society and threaten its safety. During the year, there were specific charges by Human Rights Watch (HRW) of torture, mistreatment, and denial of rights during the judicial process of detainees in the aftermath of the May 2003 terrorist attacks. The Government generally rejected these allegations. Impunity remained a problem. Human rights groups did not believe that the Government disclosed all the information available about citizens who were abducted from the 1960s through the 1980s. At times, authorities arbitrarily arrested and detained persons. Authorities infringed on citizens' privacy rights. Prison conditions remained extremely poor. The judiciary lacked independence and was subject to government influence and corruption. While there was considerable freedom of the press, journalists regularly practiced self censorship, and two were sentenced to prison and remained in prison at year's end. The police violently dispersed several peaceful demonstrations during the year. The Government generally respected freedom of religion; however, there were some limitations. Violence and societal discrimination against women were problems. The protection of unaccompanied, repatriated children was a problem. Trafficking in persons remained a problem. Child labor was a problem, principally the practice of the illegal employment of young girls who were subjected to exploitative domestic servitude.

In January, the Parliament approved a new Code of Family Law to improve the status of women and children. Authorities implemented the reforms throughout the year.

RESPECT FOR HUMAN RIGHTS

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

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

In 2003, according to human rights groups and press reports, several detainees died in police custody with little or no serious investigation into the circumstances. There were no further developments in the cases of Abdelhaq Bentasser, Mohamed Bouannit, and Driss Dida.

b. Disappearance.—There were no new cases of confirmed disappearances. During the year, there were no further developments in the case of Mohamed Damir, who disappeared after the May 16, 2003 attacks.

The Moroccan Association for Human Rights (AMDH) continued to claim that the practice of incommunicado detention without informing family members of those detained confirmed the persistent practice of forced disappearance (*see* Section 1.d.). According to a June report by Amnesty International (AI), the DST practice was to deny holding the person in question, particularly those held in the DST detention center in Temara. In such cases, family members and lawyers usually learned of the detention after the detainee was brought before a magistrate, charged, and placed in pretrial detention; in this context, the secret detention amounted to a period of disappearance.

The forced long term disappearance of individuals who opposed the Government and its policies occurred during several decades. In 1997, the Government pledged that such activities would not recur, and that it would disclose as much information as possible about past cases. Authorities stated that they released information on all 112 confirmed disappearance cases. However, human rights groups and families continued to claim cases of disappearances, many from the Western Sahara. Associations that sought information regarding those who have disappeared called upon the Government for full disclosure of events surrounding cases that date back to the 1960s.

In January, an Equity and Reconciliation Commission (IER) began work to settle definitively serious violations of human rights, including compensation for all outstanding cases of arbitrary detention and disappearance, prior to the King's assumption of the throne in 1999. The IER organized public hearings on torture and disappearances, which began on December 21 in Rabat. The IER compiled 22,000 complaints and interviewed petitioners at the rate of 5 per day as part of a process to catalogue the full range of abuses and to determine compensation. The IER also organized a range of activities including visits to former secret detention centers, to villages where a number of inhabitants were persecuted, and seminars for the public, academics, and journalists on literature, covering state violence, written by former prisoners (*see* Section 4).

c. Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.—The law prohibits torture, and the Government denied the use of torture; however, some members of the security forces tortured or otherwise abused detainees. The penal code in force during the year stipulates sentences up to life imprisonment for public servants who use or oblige the use of violence against others in the exercise of their official duties. By law, pretrial investigating judges must, if asked to do so or if they themselves notice physical marks that so warrant, refer the detained person to an expert in forensic medicine. However, according to human rights groups, judges often ignored this requirement in practice, which called into question the Government's commitment to resolving the problem.

On December 28, the Government announced a new draft law to criminalize torture, to include severe physical and mental pain and suffering. If approved, the new law would define torture in accordance with the International Convention Against Torture. It also proposes civil penalties and fines for those who encourage, accept, or hide such incidents. Under the proposed law, anyone convicted of torture would face 5 to 30 years in prison, and a fine of $1,100 to $3,300 (10,000 to 30,000 dirhams).

In October, HRW reported that lawyers and family members of prisoners claimed interrogators had subjected prisoners to physical and mental abuse in order to extract confessions or oblige prisoners to sign statements they had not made.

Attorneys for some persons who were convicted under the 2003 antiterrorism law claimed their clients were convicted on the basis of confessions coerced by torture. Some attorneys claimed that almost all of the suspects, accused in the May 2003 attacks, were convicted on the basis of signed confessions taken on police premises, sometimes following torture. There was no indication that the Government took any further action in response to claims of torture, made at the Court of Appeal in Fez, by 29 persons accused of terrorism, and reportedly judicial authorities refused to order any medical examinations.

In June, AI published a report that accused security authorities of systematic torture and ill treatment of suspects held at the Temara detention center. AI noted a sharp rise over the past 2 years in such cases in the context of "counter terrorism" measures as well as the failure of government authorities to investigate these reports. As of June 3, according to the Government, 1,748 persons had been charged with terrorism since May 2003, including 315 cases still under investigation, 199 cases still ongoing before the district court or the court of appeals, and 1,234 cases in which sentence had been pronounced. The Government pledged to investigate each of the alleged cases in the AI report.

On March 7, the Minister of Human Rights, Mohamed Oujjar, stated that a body composed of officials from the Ministries of Human Rights, Justice, and the Interior were investigating reports that persons detained in connection with the May 2003 Casablanca explosions had been subjected to torture and human rights violations.

AI and other human rights organizations reported torture and ill treatment during initial interrogations of prisoners, including beatings, electric shocks, and sexual abuse. Former detainees reported that they were held in secret detention and denied contact with lawyers or family. The AI report also documented accusations of arbitrary detention and forced confessions of detained terrorism suspects.

Prison conditions remained extremely poor, and generally did not meet international standards, despite some improvements in medical care and efforts to expand capacity. Extreme overcrowding, malnutrition, and lack of hygiene continued to aggravate the poor health conditions inside prisons. There were separate facilities for men, women, and minors. Pretrial detainees were not held separately from convicts.

In July, the Commission of the Royal Advisory Council on Human Rights (CCDH) issued its first annual report, which mainly addressed prison overpopulation and poor prison conditions.

In a speech following release of the report, Minister of Justice Mohamed Bouzoubaa said that prison overcrowding was a major concern and that many detentions were unnecessary. Bouzoubaa said that his ministry was considering alternatives to prison sentences.

In September, the NGO Moroccan Prison Observatory (OMP) reported that the population in the country's 46 prisons, which were designed to hold 39,000, had reached 54,542 prisoners. However, including detentions and subsequent releases and pardons, a total of 82,537 persons spent time in prison during the year. The OMP reported that food, hygiene, and medical conditions were grossly inadequate, with a daily budget of only 70 cents (6 dirhams) per prisoner.

The OMP continued to call attention to problems of corruption, maltreatment, malnutrition, sexual abuse, lack of training and education, drug abuse, and violence within the prisons, as well as the issue of incarcerating first time offenders with hardened criminals. The Government permitted some OMP monitors to visit prisons.

d. Arbitrary Arrest or Detention.—The Constitution does not prohibit arbitrary arrest or detention, and police continued to use these practices.

Although legal provisions for due process were revised extensively in recent years, reports indicated that authorities sometimes ignored them. Although police usually made arrests in public and during the day, they did not always identify themselves, and did not always obtain warrants.

Under the antiterrorism law, administrative detention has increased from 48 to 96 hours, with two additional 96 hour extensions allowed at the prosecutor's discretion. Some defendants were denied access to counsel or family members during this initial period, which is when the accused is interrogated, and abuse or torture is most likely to occur.

Some members of the security forces, long accustomed to indefinite access to detainees before charging them, continued to extend the time limits. In November 2003, AI reported that some of those arrested had been held incommunicado for up to 5 months. A large increase in detainees and prisoners led to an increase in allegations of incommunicado detentions that were difficult to confirm. In 2003, the Government announced that several thousand persons had been detained for links with terrorist groups, including involvement in the May 16 suicide attacks. Human rights activists and local attorneys estimated the number of detainees to be more than 4,000.

The police were required to notify a person's next of kin of an arrest as soon as possible; however, lawyers were not always informed promptly of the date of arrest, and thus were not able to monitor compliance with the administrative detention limits.

The law provides for a limited system of bail; however, it rarely was granted. The law does not require a written release to be issued for a person to be released from detention. In some instances, defendants were released on their own recognizance. Under a separate military code, military authorities may detain members of the military without warrants or public trial.

Although accused persons generally are brought to trial within an initial period of 2 months, prosecutors may request up to five additional 2 month extensions of pretrial detention. Thus, an accused person may be kept in detention for up to 1 year prior to trial.

The National Police (55,000 personnel) and the Mobile Intervention Corps (5,000 personnel) are part of the Ministry of the Interior. The National Police contains the border and immigration services, which have responsibility for matters concerning the frontiers and immigration laws, and also contains the main federal investigative body, the National Brigade, which is responsible for investigating violations of the federal penal code, such as terrorism, organized crime, and white collar crime. The DST (8,500 personnel) part of the Ministry of Interior, has security functions, and the Auxiliary Forces (25,000 personnel) are also part of the Ministry of Interior. The Royal Gendarmerie (29,000 personnel) is a paramilitary force reporting to the Min-

istry of Defense and is responsible for law enforcement in rural regions, including national highways.

Police impunity remained a problem. Bribery and smuggling were prevalent. During the year, the Government acted against smuggling rings and police corruption in Sale and in the northern regions of the country.

On May 3, the Moroccan Association for Human Rights (AMDH) reported that Hassan Essidiq was arrested on April 26 upon his arrival at Mohamed V Airport. According to his family, Essidiq was taken to a police station and later moved to an unknown destination. His whereabouts remained unknown at the end of the year.

According to the NGO Reporters Without Borders, on December 13, journalist Mohamed Bouhcini was jailed after being accused by a convicted drug trafficker that Bouhcini had delivered hashish to him during Bouhcini's research trip to the Rif Mountains. Bouhcini has reportedly been jailed in the same prison as his accuser, and no complaint was filed against him by year's end.

On March 9, the AMDH reported that several Islamist prisoners, adherents of the Salafia Jihadia, were living in isolation, deprived of medical care and decent food, and not allowed private visits with relatives in the Kenitra jail. Relatives, holding a protest on March 8 outside of the jail, were forcibly dispersed and removed by police (*see* Section 2.b.). There was no official government action or investigation by year's end.

Several attorneys, representing defendants who were arrested under the antiterrorism law, charged that authorities falsified arrest records to cover up periods of detention that exceeded the legal requirement. Many of the defendants attempted to recant the confessions in court, saying that they had not read them. Most defendants did not have access to counsel until shortly before trial, and the detainees usually did not know the contents of the alleged confessions until they were introduced as evidence in court. Judges uniformly dismissed motions to recant confessions and often did not allow evidence and witnesses for the defense.

The law provides for the right to a fair trial; however, some human rights groups criticized the conduct of trials, which proceeded very quickly for some defendants, including mass trials of 50 persons. According to law, all defendants have the right to be represented by attorneys and, if a defendant could not afford private counsel, a court appointed attorney was to be provided.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the courts were subject to extrajudicial pressures, including government influence. Some members of the judiciary were corrupt. Efforts continued with very limited success to increase efficiency and to end corruption, which, according to most observers, remained a routine cost of court business.

In a July report, Transparency Morocco described bribery of officials, including the judiciary, as a grave impediment to humane progress. In August, the Supreme Council of the Judiciary initiated disciplinary proceedings against 14 judges and eventually dismissed 2 of them and retired 4 more judges (*see* Section 3). Delays were lengthy in some court cases.

There are four levels in the common law court system: communal and district courts; courts of first instance; the appeals court; and the Supreme Court. All decisions made in criminal and civil matters in which the penalty exceeds $33.00 (300 dirhams) may be appealed to the courts of first instance (regional courts). The regional courts are subdivided into rabbinical, civil, commercial, administrative, and penal sections. Cases may be appealed from the regional courts to the appeals court.

The highest court is the Supreme Court, which is subdivided into five chambers: constitutional, penal, administrative, social, and civil. The constitutional chamber is composed of the First President of the Supreme Court, three judges appointed by the king, and three judges appointed by the president of the Chamber of Representatives.

In theory, there is a single court system under the Ministry of Justice; however, other courts also operated including administrative courts, commercial courts, and the military tribunal. In January, the Council of Ministers approved a draft law dismantling the Special Court of Justice and transferring trials of government officials to the Appeals Courts. The Special Court of Justice, begun in 1972 to sanction government officials involved in bribery and other abuses of power, was widely perceived as lenient and discriminatory. At the Government's discretion, serious state security cases such as those relating to the monarchy, Islam, or territorial integrity (advocating independence for the Western Sahara) may be brought before a specially constituted military tribunal, responsible to the military and the Ministry of Interior.

In October 2003, the Minister of Justice established family courts to adjudicate divorce and child custody cases in anticipation of proposed reforms to the Moudawana (personal status code). These courts addressed family issues for Muslim citizens, and the judges were trained in Shari'a (Islamic law) as applied in the country. By February, 160 judges had completed training in the reforms of the personal status code, and the Government reported that 20 family courts were operational. Plans called for the establishment of 70 family courts with 1 for each province. Jewish citizens dealt with family matters in their own courts.

In general, detainees were arraigned before a court of first instance. If the judge determined that a confession was obtained under duress, the law requires him to exclude it from evidence. However, human rights activists alleged that cases often were adjudicated on the basis of forced confessions, especially in cases of Islamists accused of terrorism (*see* Section 1.c.).

While appeals court may in some cases be used as a second reference for courts of first instance, they primarily handled cases involving crimes punishable by 5 years or more in prison. In practice, defendants before appeals courts who are implicated in such crimes consequently have no method of appeal. The Supreme Court does not review and rule on cases sent to it by the appeals court; the Supreme Court may overturn an appellate court's ruling on procedural grounds only. Therefore, the absence of appeals for defendants in such crimes were more problematic given the fact that an investigation into the case, by an examining magistrate, was mandatory only in those crimes punishable by sentences of life imprisonment or death.

Resource constraints also affected the court system. Although the law provides for the Ministry of Justice to provide an attorney at public expense for serious crimes (when the offense carries a maximum sentence of more than 5 years), attorneys were not always appointed, were poorly paid, and often were provided inadequate representation. In addition, there were reports that judges sometimes denied defense requests to question witnesses.

The law does not distinguish political and security cases from common criminal cases. The Government did not consider any of its prisoners to be political prisoners; however, AI identified 60 persons whom it considered to be political prisoners. In January, King Mohammed VI pardoned 33 persons who were identified as the last 33 remaining political prisoners. However, Mohamed Abadi, member of the leadership committee of the Justice and Charity Organization (JCO), remained imprisoned and the group's spiritual leader, Cheik Abdessalam Yassine, remained under round the clock police surveillance.

Various international human rights groups' estimates of the number of persons in prison for advocating independence for the Western Sahara was as high as 700; however, there was no consensus on a definitive number. Conditions in the Western Sahara complicated attempts to confirm whether Sahrawis were imprisoned solely for their political affiliation, for open advocacy of independence, or for other actions in violation of the law.

f. Arbitrary Interference With Privacy, Family, Home or Correspondence.—The Constitution states that the home is inviolable and that no search or investigation may take place without a search warrant; however, authorities sometimes ignored these provisions. The law stipulates that a prosecutor may issue a search warrant on good cause, particularly in cases of terrorism. There were reports that plainclothes security officers, who did not identify themselves or present search warrants, conducted home searches.

Government security services monitored certain persons and organizations, both foreign and domestic, and government informers monitored activities on university campuses.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of expression; however, the antiterrorist law and the press code permit prison sentences and financial penalties for journalists and publishers who violate the restrictions on defamation, libel, and discussion of the monarchy, territorial integrity (advocating independence for the Western Sahara), and Islam. The press code lists threats to public order as one of the criteria for the censor to consider. Within these limits, newspapers and weeklies were published across the political spectrum and were sometimes critical of government policies.

In January, parliament members of the Socialist Union of Popular Forces Party (USFP) proposed amending the press code to remove prison penalties for violations of the law's restrictions. However, during the year, there was no action to change the law.

The Government generally controlled the media through directives and guidance from the Ministry of Interior, subsidies, and advertising allocation. Publications that

were judged offensive could be confiscated or indefinitely suspended. The Government may censor newspapers directly by ordering them not to report on specific items or events. The Government registered and licensed domestic newspapers and journals, and could use the licensing process to prevent the publication of materials that exceeded its threshold of tolerable dissent. The Ministry of Interior controlled foreign publications by removing banned publications from circulation.

In January, journalist Narjis Erraghay was fined 11 cents (1 dirham) for charges of defamation brought against her for a 1999 article she wrote for the Al Bayanne newspaper in which she named Minister Mahmoud Archane as a torturer during the years that he worked at the Commissariat at Derb Moulay Cherif in Casablanca. Erraghay appealed and the case was still pending at the end of the year.

On January 7, King Mohammed VI pardoned 33 political prisoners including 7 journalists. Among the journalists was Ali Lmrabet who had been sentenced in May 2003, under the press code, to 4 years imprisonment, later reduced to 3 years on appeal, and fined $2,000 (20,000 dirhams) for disrespect to the King, disparaging the Monarchy, and challenging the country's territorial integrity. However, Lmrabet's newspapers, the French language Demain and the Arabic language Doumain, remained banned under the provisions of the press code.

Also among the pardoned were Mustapha Alaoui, Abdel Majid Ben Taher, Mustapha Kechnini, Mohamed Al Herd, Abdelaziz Jallouli, and Miloud Boutrigui. All had been convicted in 2003 of offenses related to the government's handling of the May 16 terrorist attacks.

In May, two Norwegian journalists were deported from the country after attempting to contact Sahrawi dissident Mohamed Daddach and others located in Western Sahara. The Government contended that the journalists had falsely stated the pretext for their visit to the country.

On June 23, Rabat police assaulted journalist Rachid Nini and numerous demonstrators during a sit in of unemployed university graduates outside the Rabat railway station (*see* Section 2.b.).

On December 9, the police assaulted journalist Lacen Aouad during a march on the Parliament by unemployed high school graduates. Aouad was reportedly beaten for photographing police beatings of demonstrators (*see* Section 2.b.).

The law requires the Ministry of the Interior to justify to the courts any seizure or banning of domestic or foreign publications, suspension of the publisher's license, or destruction of equipment. The law provides for 3 to 5 year jail sentences, fines, and payment of damages for newspaper officials found guilty of libeling public officials.

There were approximately 2,000 domestic and foreign newspapers, magazines, and journals in circulation during the year. The Government owned the official press agency, Maghreb Arab Press, and the Arabic daily newspaper, Al Anbaa. The Government also supported two semiofficial dailies, the French language Le Matin and the Arabic language Assahra Al Maghribia. In addition, the Government subsidized the press through price controls for newsprint and office space. The Government generally tolerated satirical and often stinging editorials in the opposition parties' dailies. The media continued to engage regularly in self censorship to avoid possible sanctions.

The Government owned Moroccan Radio Television. Another major broadcaster was the French backed Medi 1, which operated from Tangier. While nominally private and independent, Medi 1 practiced self censorship, as did other media outlets. A government appointed committee monitored broadcasts. The Government owned the only television stations whose broadcasts could be received in most parts of the nation without decoders or satellite dish antennas. Satellite dish antennas were in wide use throughout the country. The Government did not impede the reception of foreign broadcasts during the year.

During the year, the Government continued to block the distribution on newsstands of the JCO newspaper, Rissalat Al Foutuwa; however, the newspaper was available on university campuses.

The press also published unflattering and critical articles that would have been censored previously. The press reported on topics such as government corruption and financial scandals, sensitive human rights cases, harsh prison conditions, torture, poverty, prostitution, violence against women, exploitation of child maids, and sexual abuse of children. There were also articles critical of the country's diplomatic efforts on Western Sahara, and at least one interview with a person who espoused views on the Western Sahara conflict contrary to those of the Government.

Books that openly criticized the country's past sold freely except for several that related to disappearances and the regime of King Hassan II. Many other books written by political prisoners were on sale in local bookstores.

The Government generally did not block Internet access; however, it continued to block the JCO website.

The Government restricted academic freedom. There was no open debate on the Monarchy, Islam, or the country's incorporation of the Western Sahara; however, there was considerable criticism of the Government's handling of the Western Sahara dispute. Government informers monitored campus activities, mostly Islamist, and the Ministry of Interior approved the appointments of rectors.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and during the year, most meetings and marches took place peacefully without government interference; however, the law also permits the Government to suppress peaceful demonstrations and mass gatherings, and at times the police forcibly prevented and disrupted gatherings. Most conferences and demonstrations required the prior authorization of the Ministry of Interior, ostensibly for security reasons. However, local observers generally agreed that authorities required a declaration of a public meeting and their own authorization in order for public venue meetings or peaceful sit ins to proceed, and authorities only allowed such events to take place if they were considered non threatening to government policy. Throughout the year, the Government broke up a number of peaceful demonstrations on topics ranging from the Iraq War to domestic issues.

On January 3, police raided the law faculty at Moulay Ismail University in Meknes in search of students belonging to the leftist Stage by Stage movement at the university. Police reportedly detained a number of students and injured others. The university expelled 12 students belonging to the movement.

On January 20, authorities denied permission for a sit in at the French Consulate in Rabat, in which female activists of the PJD were planning to protest a French law banning the wearing of the Islamic headscarf and other religious symbols in schools and public places.

On January 28, police forcibly broke up a sit in of approximately 30 persons, including well known artists, doctors, and human rights activists, outside the Parliament. The demonstrators were protesting provisions of a free trade agreement that would regulate importation of generic drugs.

On February 3, police violently broke up a demonstration by fishermen outside the Ministry of Maritime Fisheries. The fishermen were demanding removal of fishing quotas. According to news reports, police injured dozens of fishermen.

Also on February 3, police forcibly broke up a demonstration by unemployed persons near the Rabat train station and injured several persons.

On March 8, police forcibly dispersed a protest demonstration by relatives of jailed Islamist prisoners outside the Kenitra jail. Police reportedly escorted the demonstrators to the bus station and commandeered buses to escort them away (*see* Section 1.d.).

On June 23, police assaulted a journalist and numerous demonstrators during a sit in of unemployed university graduates outside the Rabat railway station (*see* Section 2.a.).

On August 22, police in Zakoura forcibly broke up a sit in outside the municipal building by unemployed university graduates and their families that began on July 5.

In November, the Moroccan authorities broke up a demonstration of unemployed persons with disabilities in Rabat.

On December 9, Rabat police beat demonstrators and journalist during a march on the Parliament by unemployed high school students (*see* Section 2.a.).

The Constitution provides for freedom of association; however, the Government limited this right in practice. Under a decree restricting civil society organizations, persons who wish to create an organization are required to obtain the approval of the Ministry of Interior before holding meetings. In practice, the Ministry generally only used this requirement to prevent persons suspected of advocating causes opposed by the Government from forming legal organizations. Historically, extreme Islamist and leftist groups encountered the greatest difficulty in obtaining official approval. Although there were numerous active Islamist groups, the Government prohibited membership only in the JCO due to its anti Monarchist orientation. However, the Government tolerated some JCO activities, such as meetings and conferences. The Ministry of Interior, which has used this power to control participation in the political process, also must approve political parties. However, individual Islamists were not barred from participating in recognized political parties.

The Government circulated a draft law on political parties that is designed to limit the proliferation of political parties, currently 36, by requiring parties to hold a national congress each year. Public funding of parties would be based on the number of members confirmed at the congress and by numbers represented in the Par-

liament. If approved, the law would increase transparency of private donations to the parties, allow authorities to disband political parties for 30 days during a national emergency, and authorities could prohibit party meetings or activities. Members of Parliament and established political parties were provided with drafts of the law; however, it was not submitted to the Parliament by the end of the year.

Prior to the September 2002 parliamentary elections, the Government decreed that any existing political party that had not participated in at least two elections would be dissolved and that public aid would not be granted to any party that did not hold a congress every 4 years. To create a new party, a declaration must be submitted to the Ministry of Interior and signed by at least 1,000 co founding members from all regions of the country.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice, with some restrictions. The Constitution provides that Islam is the official state religion; however, non Muslim communities openly practiced their faith. The Constitution characterizes the country as an Islamic state, and designates the King as Commander of the Faithful.

Jewish and Christian communities openly practiced their faiths; however, the Government placed certain restrictions on Christian religious materials and proselytizing, and tolerated several small religious minorities with varying degrees of official restrictions.

The Government did not license or approve religions or religious organizations. The Government provided tax benefits, land, building grants, subsidies, and customs exemptions for imports necessary for the observance of the major religions.

Beginning in June 2003, several preachers and religious counselors were accused of exploiting mosques for political purposes, such as promoting Islamist parties. During the year, the Ministry of Islamic Affairs and Endowments took charge of and monitored the activities of mosques, placed other restrictions on Muslims and Islamic organizations whose activities were deemed to have exceeded the bounds of religious practice or become political in nature, and began to provide religious training for imams. The Government strictly controlled the construction of new mosques; persons wanting to build a new mosque had to obtain permission. Authorities said that all of these measures were put in place in order to avoid exploitation of mosques for political propaganda, such as distributing pamphlets and raising funds.

The Ministry of Islamic Affairs monitored Friday mosque sermons and the Koranic schools to ensure the teaching of approved doctrine. At times, the authorities suppressed the activities of Islamists, but generally tolerated activities limited to the propagation of Islam, education, and charity. Security forces sometimes closed mosques to the public shortly after Friday services to prevent the use of the premises for unauthorized political activity.

The Government barred the Islamic JCO as a political party and subjected prominent members to constant surveillance and, at times, refused to issue passports to them. The Government continued to block JCO websites and publication of newspapers (*see* Sections 1.f., 2.a., 2.b., and 3).

The Government provided funds for the teaching of Islam in public schools. The annual budget also provided funds for religious instruction to the small parallel system of Jewish public schools. Representatives of the Jewish minority generally lived throughout the country in safety; however, in September 2003, a Jewish merchant was murdered in a religiously motivated killing. Authorities arrested three persons for the crime.

During the May 2003 terrorist attacks, members of the Salafiya Jihadia targeted a Jewish community center in Casablanca. After the attacks, Muslims marched in solidarity with Jews to condemn terrorism. Annual Jewish commemorations normally took place in the country, and Jewish pilgrims from the region regularly came to holy sites in the country. The International Committee of the Red Cross (ICRC) assisted the Government in designing a course on tolerance and international humanitarian law, which was introduced in schools.

The small foreign Christian community operated churches, orphanages, hospitals, and schools without any restriction or licensing requirement. Missionaries, who conducted themselves in accordance with cultural norms, were largely left unhindered. However, those who proselytized publicly faced expulsion. Islamic law and tradition called for punishment of any Muslim who converted to another faith. Any attempt to induce a Muslim to convert was illegal.

The Government permitted the display and sale of Bibles in French, English, and Spanish, but not in Arabic. The Government continued to refuse licenses for the importation and sale of Bibles in Arabic, despite the absence of any law banning such books. Nevertheless, Arabic Bibles were sold in local bookstores. During the year,

there were reports of police questioning foreign missionaries because they were carrying Christian materials.

There are two sets of laws and courts one for Muslims and one for Jews pertaining to marriage, inheritance, and family matters. The family law courts are administered, depending on the law that applies, by rabbinical or Islamic authorities who are also court officials. Under the new family law, which applies to Muslims, judges were being retrained and new civil judges were being recruited. Rabbinical authorities continued to administer family courts for Jews. There were no separate family courts for other religious groups. The Government continued to encourage tolerance and respect among religions.

In 2002, the Shiite organization Al Ghadir asked for official status, the first such request for a Shiite association. No response was received from the authorities by year's end.

For a more detailed discussion, see the 2004 International Religious Freedom report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, Repatriation, and Exile.—The Constitution provides for freedom of movement; however, the Government restricted this right in certain areas. In the government administered Western Sahara, authorities restricted movement in areas regarded as militarily sensitive.

The Ministry of Interior restricted freedom to travel outside the country in certain circumstances. In addition, all civil servants and military personnel must obtain written permission from their ministries to leave the country. The OMDH and AMDH compiled lists of individuals who reportedly were denied passports or who had passports but were denied permission to travel. The OMDH contended that the Government, in resorting to arbitrary administrative delays, continued to harass former political prisoners who sought to resume normal lives.

The law provides for forced exile; however, there were no known instances of its use during the year.

The Government welcomed voluntary repatriation of Jews who had emigrated. Jewish emigres, including those with Israeli citizenship, freely visited the country. The Government also encouraged the return of Sahrawis who departed the country due to the conflict in the Western Sahara, provided that they recognized the Government's claim to the territory. The Government did not permit Western Saharan nationalists who were released from prison to live in the disputed territory.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In November 2003, the Government adopted the Law on Emigration and Immigration that provides for the rights of asylum seekers and the temporary residency of persons who do not qualify for refugee status or asylum. The U.N. High Commissioner for Refugees (UNHCR) is currently the sole agency in the country entitled to grant refugee status and verify asylum cases. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees.

In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and has provided refugee status and asylum; however, there were reports that persons with possible claims to refugee status were turned away at the country's borders.

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

The Constitution provides for periodic, free elections on the basis of universal suffrage; however, citizens did not have the full right to change their government. The King, as head of state, appoints the Prime Minister, who is the titular head of government. The Constitution authorizes the Prime Minister to nominate all government ministers, but the King may nominate ministers himself and has the power to replace any minister at will. The Parliament has the theoretical ability to change the system of government; however, the Constitution may not be changed without the King's approval. The Ministry of Interior appoints the provincial governors (walis) and local district administrative officials (caids). However, the King also may nominate provincial governors. Municipal and regional councils are elected. The Government consists of 35 cabinet level posts, including 5 sovereign ministerial posts traditionally appointed by the King (Interior, Foreign Affairs, Justice, Islamic Affairs, and Defense).

In September 2003, there were elections for positions on approximately 25,000 municipal councils. Official turnout was listed at 54 percent. By most accounts, the balloting was well organized; however, there were allegations of corruption and vote buying in some of the races. The Government limited the participation of the PJD. It was the only Islamist party that participated in the elections; however, it ran can-

didates in 18 percent of the municipalities. Female candidates won 1.7 percent of municipal council seats while fielding 5 percent of the candidates. Following the elections, council members elected new mayors in all cities.

In September 2002, the first free and fair parliamentary elections in the country's history were held. According to observers, the absence of fraud and manipulation generally enhanced the credibility of reform efforts. The election took place under a revised electoral code, including a proportional list system, plus a national list of 30 seats reserved for women. Twenty six parties ran candidates and, according to government statistics, 52 percent of those eligible voted.

The Parliament included 30 women who gained seats reserved for women on the national list, plus 5 who won seats in their local districts. There were three female members of the upper house. Several proposed parties were not allowed to form during the year. The JCO never has been granted legal status as a political party (*see* Section 2.b.).

In its July report, Transparency Morocco described bribery of officials, including the judiciary, as a grave impediment to human progress. The report claimed that bribery was increasing, and that senior officials lacked the will to combat it. Some human rights activists said that authorities made scapegoats of a few prominent cases. In August, the Supreme Council of the Judiciary initiated disciplinary proceedings against a number of judges (*see* Section 1.e.).

The country has no freedom of information law. The Government publishes new laws and regulations in the official Gazette within 30 days after their passage or promulgation.

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

The Government cooperated with and was generally responsive to local human rights monitors operating within the accepted boundaries of political discourse in the country. National human rights NGOs recognized by and cooperating with the Government included: the OMDH; the Moroccan League for the Defense of Human Rights (LMDDH); and the AMDH. The AMDH did not cooperate officially with the Government, but usually shared information. Some AMDH activists were arrested at a demonstration of unemployed college graduates. The Government, at times, harassed and restricted the activities of the AMDH and OMDH; however, during the year, some former OMDH leaders occupied high level posts in the Government. Since 2000, OMDH and LMDDH have had government subsidies in recognition of their serving the public interest. There were also numerous regional human rights organizations.

The FVJ and the OMP were two additional prominent national human rights NGOs included. Created by victims of forced disappearance and surviving family members, the FVJ's principal goal was to encourage the Government to address openly the issue of past forced disappearances and arbitrary detention. The OMP's main purpose was improving the treatment and living conditions of prisoners. These groups maintained fairly regular contact with government authorities throughout the year.

In June 2003, authorities dissolved the Western Sahara branch of the FVJ on the charge that the organization had undertaken illegal activities that were likely to disturb public order and undermine the territorial integrity of the country. AI suggested FVJ activities were the peaceful expression of views on the issues of self determination and human rights.

The Government's attitude toward international human rights organizations depended on the sensitivity of the areas of the NGO's concern. The Government generally was cooperative on disappearances and abuses by security forces. Although government officials met in June 2002 with the International Council for the Rehabilitation of Victims of Torture (a Danish NGO), the Government did not agree to its recommendation to permit the U.N. Committee Against Torture to make confidential investigations in the country and to consider individual complaints. There were no visits by the U.N. Committee during the year.

Human rights training, based on an agreement between AI and the Government for a 10 year human rights education program, continued. The Ministry of Human Rights, until it was abolished in June and its functions absorbed by the Ministry of Justice, and the Ministry of Education provided human rights education for teachers and, in cooperation with the ICRC, provided a curriculum for teaching international humanitarian law in schools. Increased human rights training was provided to prison officials, military officers, police, and medical personnel. The CCDH counseled the Palace on human rights issues, and was charged by the King to resolve cases related to persons who had disappeared.

In 2002, the CCDH was mandated to produce an annual report on the human rights situation in the country, and it delivered its first edition in July. The CCDH report dwelt at length with prison conditions and prison overpopulation. In December 2002, the King established a nonjudicial ombudsman whose aim was to consider citizen allegations of governmental injustices and thereby ensure respect for the rule of law and justice. Its annual report will be reviewed by the CCDH.

In January, the Equity and Reconciliation Commission (IER) began work. The authorities tasked the IER with making reparations for families of disappeared persons and other victims, restoring the dignity of victims, providing for their rehabilitation and medical care, and creating a thorough accounting of the events which led to human rights abuses and the circumstances of the crimes. The IER, which was headed by Driss Benzekri, a former political prisoner, had a 1 year mandate that was extended to March 30, 2005, due to the larger than expected number of petitions.

By August, the IER reported that it had received approximately 20,000 complaints. IER staff interviewed petitioners at the rate of 50 per day and prepared for public hearings on torture and disappearances. Staff also visited former prisons and met with victims in regions that were particularly victimized. The IER's activities were widely reported in the local press.

The IER public hearings started December 21, with six testimonies, and also were broadcast on two TV channels and a satellite TV channel. Members of the national and foreign press and NGOs were allowed to attend. Participants were given 20 minutes each to present their testimony. Under agreement with the IER, participants did not disclose the names of persons they considered responsible for violations. Around 200 victims, families of victims, and witnesses of violations were scheduled to participate in future hearings, throughout the country, over a period of 10 weeks.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination based on race, sex, disability, language, or social status; however, traditional practice discriminated against women, particularly in rural areas. In January, both houses of Parliament unanimously approved a new law governing personal status with 110 amendments, after the Cabinet approved it without amendment in December 2003. The reforms to the "Moudawana" personal status code were designed to make the law more free of gender discrimination.

Women.—The law does not specifically prohibit domestic violence against women, but the general prohibitions of the criminal code address such violence. Spousal abuse was common, but there were no reliable statistics regarding its extent. Spousal abuse was more frequent in rural than urban areas and among less educated persons. Although a battered wife had the right to file a complaint with police, as a practical matter she would do so only if prepared to bring criminal charges. Physical abuse legally was grounds for divorce; however, for legal and societal reasons, few women reported abuse to authorities.

There was substantial progress in making the public aware of problems concerning women, children, persons with disabilities, and minorities. On July 15, the Ministry of Family set up toll free numbers for victims of domestic violence in 20 centers throughout the country. There was no information available on the effectiveness of this initiative by year's end.

The Criminal Code provides for severe punishment for men convicted of rape or sexual assault. The defendants in such cases bear the burden of proving their innocence. However, sexual assaults often go unreported because of the stigma attached to the loss of virginity. While not provided for by law, victim's families may offer rapists the opportunity to marry their victims in order to preserve the honor of the family. Spousal rape was not a crime.

The law is more lenient toward men with respect to crimes committed against their wives. Honor crimes, a euphemism that refers to violent assaults with intent to kill a woman for her perceived immodest or defiant behavior, remained extremely rare.

The law prohibits prostitution; however, it was prevalent, especially in urban centers. The Government did not prosecute women who were coerced into providing sexual services. Trafficking in persons was a problem (*see* Sections 5, Trafficking, and 6.c.).

There is no law against sexual harassment and there were no reliable statistics from which to report on the extent of the problem.

The changes to the personal status code introduced a number of changes to the status of women. The new law increased the marriage age for women from 15 to 18 years, placed the family under the joint responsibility of both spouses, rescinded

the wife's duty of obedience to her husband, eliminated the requirement of a marital tutor for women to marry, created divorce by mutual consent, and imposed limitations on the practice of polygamy. However, citizenship still passed through the father, and single mothers were heavily stigmatized.

The reforms were predicated on the establishment of 70 family courts and the training of judges to implement the reforms (*see* Section 1.e.). The new personal status code will relies much more heavily on the court system than the previous law. Under the reforms, time limits were established for the family courts to pronounce judgments; for example, 1 month for alimony cases and 6 months for divorces.

Under the criminal code, women generally were accorded the same treatment as men; however, the personal status code governs family and estate cases. Even in cases in which the law provides for equal status, cultural norms often prevented a woman from exercising her rights. For example, when a woman inherited property, male relatives could pressure her to relinquish her interest.

While many well educated women pursued careers, few rose to the top echelons of their professions. Women constituted approximately 35 percent of the work force, with the majority in the industrial, service, and teaching sectors. The Government reported that the illiteracy rate for women was 62 percent in urban areas (82 percent in rural areas), compared with 41 percent for men (50 percent in rural areas). Women in rural areas were most affected by inequality. Women who earned secondary school diplomas had equal access to university education.

Many NGOs worked to advance women's rights and to promote women's issues. Among these were the Democratic Association of Moroccan Women, the Union for Women's Action, and the Moroccan Association for Women's Rights, all of which advocated enhanced political and civil rights. There were numerous NGOs that provided shelters for battered women, taught women basic hygiene, family planning, and childcare, and promoted literacy.

Children.—The Government remained committed to the protection of children's welfare and attempted to do so within the limits of its budgetary resources. The law provides for compulsory education for children between the ages of 6 and 15, although the Government increasingly sought to enforce the law. There were 92.2 percent of children, ages 6 to 11, in primary school, and 97.6 percent of children, ages 4 to 5, were in pre school and kindergarten. However, the dropout rate for middle and high school students was nearly 20 percent. A May report from the Secretariat for Literacy and Non Formal Education estimated that as many as 1.5 million children, between the ages of 9 to 15, were not in school. As many as 600,000 children under the age of 15 were presumed to be working. However, over 140,000 were enrolled in government remedial and vocational education programs.

Many children worked in the informal and farming sectors due to the economic difficulties of their families. The Government had difficulty addressing the problem of child labor, except in organized labor markets (*see* Section 6.c. and 6.d.). Despite legislation, young girls were exploited as domestic servants on a large scale (*see* Section 5, Trafficking). NGO activists estimated that there were thousands of teenage prostitutes in urban centers. Their clientele consisted of both foreign tourists and citizens.

The practice of adoptive servitude, in which urban families employ young rural girls and use them as domestic servants in their homes, was widespread. Credible reports of physical and psychological abuse in such circumstances were widespread. Some orphanages have been charged as complicit in the practice. More often, parents of rural girls contracted their daughters to wealthy urban families and collected the salaries for their work as maids. Adoptive servitude was accepted socially, was unregulated by the Government, and only in recent years began to attract public criticism. The problem remained prevalent, although the National Observatory of Children's Rights has conducted, since 2000, a human rights awareness campaign regarding the plight of child maids.

The legal minimum age of employment was 15 years. The number of children working illegally as domestic servants was high: 45 percent of household employees were between the ages of 10 and 12 and 26 percent were under the age of 10, according to a 2001 joint study by the Moroccan League for the Protection of Children and UNICEF. The report denounced the poor treatment a number of the children received, such as being forced to work all day with no breaks. Many children worked either as domestic servants, artisan apprentices, or in some other capacity that kept them from attending school.

Another problem that drew attention during the year was the situation of unaccompanied repatriated children. Upon their return, generally from Spain, they were subjected to material difficulties and abuse on the streets, as well as abuse by border officials. The Government had limited capacity to deal with this problem (*see*

Section 5, Trafficking). In December 2003, the Government signed an accord with Spain to repatriate unaccompanied minors. As part of the accord, Spain agreed to help the Government reunify children with their families or in halfway houses and to provide remedial education for the repatriated children.

Another problem facing abandoned children of both sexes was their lack of civil status. Civil status was necessary to obtain a birth certificate, passport, or marriage license. If a father did not register his child, the child was without civil status and the benefits of citizenship. It was possible for an individual to self register, but the process was long and cumbersome. While any child, regardless of parentage, may be registered within a month of birth, a court order was required if registration did not take place in that time. The new law provides that children born out of wedlock can carry the father's name.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. The Immigration and Emigration Act of November 2003 specifically prohibits trafficking in persons and levies stiff fines and prison sentences against those, including government officials such as border patrol and immigration officers, involved in or who fail to prevent trafficking in persons. Under the penal code, perpetrators were prosecuted either for fraud, kidnapping, corruption of minors, or as persons who forced others into prostitution.

Trafficking in persons was a problem, but the Government fully complied with the minimum standards for the elimination of trafficking. In 2003, the Government created a bi national commission on illegal migration and trafficking in persons with Spain, and began conducting joint patrols of the waters between the mainland and the Canary Islands.

During the year, the Government began the repatriation of an estimated 6,000 minors under an agreement concluded with Spain (*see* Section 5, Children).

Prostitution was prevalent, particularly in cities with large numbers of tourists, as well as near towns with large military installations. Prostitution of minors was a particular problem in the village of El Hajeb near Meknes, which attracted sex tourists from Europe and the Gulf states (*see* Section 5, Children).

Women were trafficked abroad, and internal trafficking was also a problem, particularly of women for sexual exploitation or of young girls for domestic service. To combat this problem, the Government amended the penal code in December 2003 to make sex tourism a crime. Other amendments increased the penalties for promoting child pornography and child prostitution and for employing underage children.

The Government did not provide direct funding to NGOs offering services to victims of trafficking; however, the Government provided in kind support. The Government supported programs aimed at keeping children in school, improving education opportunities for rural girls, and expanding economic opportunities in high risk areas.

The country was a transit point for trafficking and alien smuggling to Europe. Hundreds of citizens and foreigners, most from sub Saharan Africa, drown annually attempting to cross the Strait of Gibraltar, or attempting to reach the Canary Islands from Western Sahara.

Persons With Disabilities.—There are no laws to assist persons with disabilities. Specifically, the law does not mandate access to buildings for persons with disabilities. A high incidence of disabling disease, especially polio, has resulted in a correspondingly high number of persons with disabilities. The latest statistics from the Government estimated the number of persons with disabilities at 2.2 million, or 7 percent of the population. However, other estimates were as high as 3 million. While the Ministry of Social Affairs attempted to integrate persons with disabilities into society, in practice, integration largely was left to private charities. The annual budget for the ministerial department in charge of affairs concerning persons with disabilities was only .01 percent of the overall annual budget. Nonprofit special education programs were priced beyond the reach of most families. Typically, their families supported persons with disabilities; some survived by begging.

National/Racial/Ethnic Minorities.—The official language is Arabic; however, both French and Arabic were used in the news media and educational institutions. Science and technical courses were taught in French, thereby preventing the large, monolingual Arabic speaking population from participation in such programs. Educational reforms in the past decade have emphasized the use of Arabic in secondary schools. However, failure to transform the university system similarly has led to the disqualification of many students from higher education in lucrative fields. The poor lacked the means to access additional instruction in French to supplement the few hours per week taught in public schools.

Approximately 60 percent of the population claim Berber heritage, including the Royal Family. Berber cultural groups contended that their traditions and language were being lost rapidly. A number of Berber associations claimed that the Government refused to register births for children with traditional Berber names, discouraged the public display of their language, limited the activities of their associations, and continued to "Arabize" the names of towns, villages, and geographic landmarks. Official media broadcasted in the Berber language for limited periods each day.

In September 2003, teaching of the Berber language began in 317 primary schools and in September another 961 schools began teaching Berber to first graders. The Government pledged to teach Berber in all public schools by 2008–09.

Section 6. Worker Rights

a. The Right of Association.—The law permits workers to establish and join trade unions; however, the laws reportedly have not been implemented in some areas. Most union federations were allied with political parties, but unions were free from government interference. Approximately 600,000 of the country's 10 million workers were organized in 19 trade union federations. Five federations dominated the labor scene: The Moroccan Labor Union (UMT); the Democratic Labor Confederation (CDT); the General Workers Union of Morocco (UGTM); the Islamist oriented National Labor Union of Morocco (UNTM); and a breakaway wing of the CDT, the Democratic Labor Federation (FDT). The UMT dominated the private sector, while the CDT and FDT dominated the public sector.

On June 8, the new labor code went into effect; however, the Government continued to rely on a tripartite process to reach accords on a reduction in the workweek from 48 to 44 hours, and a 10 percent increase in the minimum wage. Companies were forbidden from engaging in actions designed to undermine legitimate work stoppages.

Union officers were sometimes subject to government pressure. Union leadership did not always uphold the rights of members to select their own leaders. There was no case of the rank and file voting out its current leadership and replacing it with another; however, disaffected members of the CDT broke away in April 2003 to form their own labor federation, the FDT.

The new law specifically prohibits antiunion discrimination and incorporates elements of ILO Convention 87, but prohibits several categories of public employees the right to form unions. These include members of the armed forces, the police, and the judiciary. In the past, under the ostensible justification of separation for cause, employers had dismissed workers for union activities that were regarded as threatening to employer interests. The new law expressly prohibits companies from dismissing workers for participating in legitimate union organizing activities. The law also prescribes the Government's authority to intervene in strikes. Under the law, employers are no longer able to initiate criminal prosecutions against workers participating in strikes.

The courts have the authority to reinstate arbitrarily dismissed workers and are able to enforce rulings that compel employers to pay damages and back pay. Unions may sue to have labor laws enforced, and employers may sue unions when they believe that unions have overstepped their authority.

Unions belonged to regional labor organizations and maintained ties with international trade union secretariats. The UMT is a member of the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—Constitutional provisions imply the right to organize and bargain collectively; however, with the passage of the new law, these rights are statutorily mandated. Trade union federations competed among themselves to organize workers. Any group of eight workers may organize a union, and a worker may change union affiliation easily. A work site may contain several independent locals or locals affiliated with more than one labor federation. However, only unions able to show at least 35 percent of the workforce as members must be recognized as negotiating partners.

Collective bargaining has been a longstanding tradition in some parts of the economy, such as the industrial sector, and is becoming more prevalent in the service sector, including banking, health, and the civil service. The wages and conditions of employment of unionized workers generally were set in discussions between employer and worker representatives. However, employers set wages for the vast majority of workers unilaterally. Labor disputes have arisen in some cases as the result of employers failing to implement collective bargaining agreements and withholding wages.

The Constitution provides for the right to strike, but also prescribes that the conditions and ways of exercising such a right will be defined by subsequent law which, in fact, requires compulsory arbitration of disputes. The new law prohibits sit ins

and establishes the "right to work," calls for 10 day notice of a strike, and allows the hiring of replacement workers. The Government can intervene in strikes, and a strike cannot take place around issues covered in a collective contract for 1 year after the contract comes into force. The Government has the authority to break up demonstrations in public areas that do not have government authorization for strikes to be held, and to prevent the unauthorized occupancy of private space, such as a factory.

Unions may not prevent non strikers from going to work and may not engage in sabotage. Any striking employee who prevents a replacement worker from getting to his job is subject to a 7 day suspension. A second offense within 1 year is punishable by a 15 day suspension.

Work stoppages normally were intended to advertise grievances and lasted 24 to 72 hours or less. Most strikes during the year were of short duration, usually 24 to 48 hours, involving the teachers' unions, Royal Air Maroc employees, bank officers, longshoremen, bus drivers, cab drivers, and health care professionals.

Employers wishing to dismiss workers are required by law to notify the provincial governor through the labor inspector's office. In cases in which the employer plans to replace dismissed workers, a government labor inspector provides replacements and mediates the cases of workers who protest their dismissal.

In general, the Government ensured the observance of labor laws in larger companies and in the public sector. In the informal economy, such as in the family workshops that dominated the handicrafts sector, employers routinely ignored labor laws and regulations, and government inspectors lacked the resources to monitor violations effectively.

Unions resorted increasingly to litigation to resolve labor disputes. According to 2003 figures released by the Labor Department, inspectors helped resolve labor disputes affecting several hundred businesses and, by so doing, precluded 721 potential strikes. The Ministry of Labor's 496 inspectors served as investigators and conciliators in labor disputes. According to the Ministry of Employment, its inspectors were able to help resolve some potential strikes affecting businesses during the first 9 months of the year. It claimed that its staff, over the same period, helped to reinstate employees.

Unresolved issues in the social dialog remained concerning reforms to pension and retirement systems, regulating the right to strike, providing ample notice to management before a walkout, easing rules on dismissing or laying off workers, and reducing management use of temporary workers to circumvent provisions of the code that apply only to permanent employees.

In the Tangier Free Trade Zone, an export processing zone, the country's labor laws and practices fully apply to the 10,000 employees. The proportion of unionized workers in the export zone was comparable to the rest of the economy, approximately 6 percent.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5, Trafficking). In practice, the Government lacked the resources to inspect the many small workshops and private homes where the vast majority of such employment would occur. Forced labor persisted in the practice of adoptive servitude in households (*see* Section 5, Children).

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum employment age was 15 years. The minimum age applied to all sectors and included apprenticed children and those in family businesses. The law prohibits children under 18 from being employed more than 10 hours per day, including a minimum of a 1 hour break, or in hazardous work or night work. Under the labor code, all employees are limited to a maximum 44 hour regularly scheduled workweek.

Noncompliance with child labor laws was common, particularly in agriculture where, according to a 2003 survey by the International Program on the Elimination of Child Labor (IPEC) and the Ministry of Employment, 84 percent of the country's 600,000 underage workers worked on family farms. In practice, children often were apprenticed before age 12, particularly in small, family run workshops in the handicraft industry. Children, particularly rural girls, were employed as domestic servants in urban areas and usually received little or no payment. Children worked also in the informal sector in textile, carpet, and light manufacturing activities. Safety and health conditions, as well as wages in businesses that employ children often were substandard. The situation for children working in the textile sector remained troubling, and the Government maintained that the informal handicrafts sector was difficult to monitor.

Ministry of Employment inspectors were responsible for enforcing child labor regulations, which generally were observed in the industrialized, unionized sector of

the economy. However, before the passage of the 2003 labor code, the inspectors were not authorized to monitor the conditions of domestic servants. Under both the new labor code and the penal code, it is illegal for children under age 15 to be employed. Labor inspectors and police were empowered to bring charges against employers of underage children and specify penalties. During the year, a few employers were fined for employing underage children.

Along with UNICEF and several domestic NGOs, the IPEC had several small, ongoing programs to provide child maids and other working children with rudimentary education, health care, and leisure activities. In January, IPEC received a $2.0 million (18 million dirhams) grant from a foreign government to provide remedial education to several thousand rural children. On June 11, in connection with the ILO's "World Day Against Child Labor," the foreign government launched a $3.0 million (27 million dirhams) child labor education initiative project, ADROS, designed to aid at least 7000 "apprentice artisans" and child maids.

e. Acceptable Conditions of Work.—Neither the minimum wage for the industrialized sector nor the wage for agricultural workers provided a decent standard of living for a worker and family, even with government subsidies for food, diesel fuel, and public transportation. In many cases, several family members combined their income to support the family. Most workers in the industrial sector earned more than the minimum wage. They generally were paid between 13 and 16 months' salary, including bonuses, each year.

In keeping with the April 2003 tripartite accord, the Government raised the minimum wage for nonagricultural employees in the private sector by 5 percent increments in June and July, although analogous increases were scheduled to be delayed until January 2005 for workers in the textile, tourism, leather, and agro food processing industries. With these two increments, the minimum wage was approximately $223.30 (2,010 dirhams) per month in the industrialized sector. It was approximately $5.60 (50 dirhams) per day for agricultural workers; however, businesses in the informal sector, which accounted for 60 percent of the labor force, often ignored the minimum wage requirements.

The minimum wage was not enforced effectively in the informal and handicraft sectors. However, the government pay scale exceeded the minimum wage for workers at the lowest civil service grades. To increase employment opportunities, the Government allowed firms to hire recent graduates for a limited period through a subsidized internship program at less than the minimum wage. However, due to economic conditions, most were not offered full time employment at the conclusion of their internships. According to the Government, the overall unemployment rate during the year was 10.8 percent, but some union leaders contended that a more accurate figure, including underemployment, was approximately 35 percent.

The law provides for a 44 hour maximum workweek, with no more than 10 hours worked in any single day, premium pay for overtime, paid public and annual holidays, and minimum conditions for health and safety, including a prohibition on night work for women and minors. These were not observed universally and were not enforced effectively by the Government in all sectors.

Occupational health and safety standards were rudimentary, except for the prohibition on the employment of women and children in certain dangerous occupations. The labor inspectors attempted to monitor working conditions and investigate accidents, but lacked sufficient resources. While workers, in principle, had the right to remove themselves from work situations that endangered health and safety without jeopardizing their continued employment, there were no reports of workers attempting to exercise this right.

WESTERN SAHARA

Morocco claims the Western Sahara territory and administers Moroccan law and regulation in approximately 85 percent of the territory that it controls; however, sovereignty remains disputed between the Government of Morocco and the Polisario Front (Popular Front for the Liberation of the Saguia el Hamra and Rio de Oro), an organization seeking a U.N. supervised referendum on self determination for the territory. The Moroccan Government sent troops and settlers into the northern two thirds of the territory after Spain withdrew in 1975, and extended its administration over the southern province of Oued Ed Dahab after Mauritania renounced its claim in 1979. Since 1973, the Polisario has challenged the claims of Spain, Mauritania, and Morocco to the territory. Moroccan and Polisario forces fought intermittently from 1975 until the 1991 ceasefire and deployment to the area of a U.N. peacekeeping contingent, known by its French initials, MINURSO.

In 1975, the International Court of Justice advised that while some of the territory's tribes had historical ties to Morocco, the ties were insufficient to establish

"any tie of territorial sovereignty" between the territory and Morocco. The Court added that it had not found "legal ties" that might affect the applicable U.N. General Assembly resolution regarding the de colonization of the territory, and, in particular, the principle of self determination for its persons. Sahrawis (as the persons native to the territory are called) lived in the area controlled by Morocco, lived as refugees in Algeria near the border with Morocco, and to a lesser extent, in Mauritania. A Moroccan constructed sand wall divided most of the territory between Moroccan and Polisario controlled sections.

In 1988, Morocco and the Polisario accepted the U.N. plan for a referendum allowing the Sahrawis to decide between integration with Morocco or independence for the territory. However, disagreements over voter eligibility were not resolved, and a referendum has not yet taken place. In 1997, U.N. Secretary General Kofi Annan appointed James Baker as his personal envoy to examine approaches for a peaceful settlement.

During the following years, Baker visited the territory, consulted with the parties, and offered proposals to resolve the problem. In January 2003, he presented a peace plan that called for a 4 to 5 year period of limited autonomy for an interim administration composed of elected members of a Western Sahara Authority, to be followed by a referendum to determine the status of the territory. Morocco ultimately rejected the plan, while the Polisario accepted it. Subsequently, an adjusted text to the Baker Plan added an additional ballot option in the referendum to include self government or autonomy, in addition to the two previous options of independence or integration into Morocco. In July 2003, the Security Council called on the parties to work towards its acceptance and implementation. Morocco voiced objections to that resolution, while the Polisario expressed support.

Baker resigned his post in June. Following his resignation, the U.N. Secretary General designated Alvaro De Soto as his Special Representative for the Western Sahara.

On October 28, the Security Council voted to extend the MINURSO mandate until April 30, 2005 to give the parties more time to work out their differences.

A sizeable Moroccan economic program subsidized migration and development as part of its efforts to strengthen Moroccan claims to the territory. In October, the Moroccan Government unveiled a new five year $800 million development program for all of its "southern provinces," which included the territory. The population of the territory was an estimated 267,000. Incomes, fuel, power, water, and basic food commodities were also subsidized.

The civilian population living in the territory under Moroccan administration was subject to Moroccan law. Political rights for the residents remained circumscribed, and citizens did not have the right to change their government. U.N. observers and foreign human rights groups maintained that the Moroccan Government monitored the political views of Sahrawis more closely than those of other groups, particularly those suspected of supporting independence and the Polisario.

Since 1977, the Saharan provinces of Laayoune, Smara, Awsard, and Boujdour (and Oued Ed Dahab since 1983) have participated in elections organized and controlled by the Moroccan Government. In the 2002 parliamentary elections, Sahrawis whose political views were aligned with the Moroccan Government filled all the seats allotted to the territory. In September 2003, municipal elections were held. No Sahrawis opposed to Moroccan sovereignty were candidates in the elections. According to Moroccan government statistics, the national turnout was 54 percent, including 68 percent in the territory.

As in past years, there were no new reports of politically motivated disappearances in the territory under Moroccan administration. The forced disappearance of individuals who opposed the Government and its policies occurred over several decades; however, in 1997, the Government pledged that such activities would not recur, and pledged to disclose as much information as possible on past cases. Authorities stated that they released information on all 112 confirmed cases of disappearance. However, human rights groups and families have continued to claim hundreds more cases, many from the territory. International human rights organizations continued to estimate that there had been between 1,000 and 1,500 disappearances of Sahrawis in the territory, although conditions in the territory prevented confirmation of this figure.

Those who disappeared were Sahrawis or Moroccans who challenged the Government's claim to the territory or other government policies. Many of those who disappeared reportedly were held in secret detention camps. At year's end, Moroccan families did not have any information regarding their missing relatives, many of whom disappeared over 20 years ago.

Through the Arbitration Commission of the Royal Advisory Council on Human Rights (CCDH), the Government in 2000 began distributing preliminary compensa-

tion payments to affected Sahrawis, and announced that more compensation could be distributed pending the results of a review of petitions by Sahrawi claimants. However, as in previous years, many still viewed the CCDH process as biased, slow, and flawed administratively.

In January, the Equity and Reconciliation Commission (IER) continued the work started by the CCDH, to settle serious violations of human rights. The IER was tasked with making reparations for families of disappeared persons and other victims, restoring the dignity of victims, providing for their rehabilitation and medical care, and providing a thorough accounting of the events which led to human rights abuses and of the circumstances of the crimes themselves. The IER was composed of appointed members, most of whom were human rights activists including Commission President Driss Benzekri, a former political prisoner. The IER had an extended mandate until March 30, 2005 due to the larger than expected number of petitions. By August, the IER reported having received almost 20,000 complaints, a number of them having to do with the territory. Throughout the year, investigative teams from the IER visited the territory on several extended occasions, in which interviewers and researchers looked into complaints, medical personnel treated former detainees, and IER staff prepared for public hearings of the abuses.

The public hearings began on December 21 in Morocco. Under agreement with the IER, participants did not disclose the names of persons they considered responsible for violations. Around 200 victims, families of victims, and witnesses of violations were scheduled to participate in future hearings, throughout the country, over a period of 10 weeks. The IER was expected to present a final report in April 2005 discussing the reasons and institutional responsibilities for grave violations prior to 1999.

The 1998 U.N. settlement plan called for the Polisario to release all remaining Moroccan prisoners of war (POWs) after the voter identification process was completed. In 1999, MINURSO completed the voter identification process. According to Polisario claims, the Government continued to withhold information on 150 Polisario missing combatants and supporters, whom the Polisario listed by name. The Government of Morocco formally denied that any Sahrawi former combatants remained in detention. The International Committee of the Red Cross (ICRC) continued to investigate such claims by the Polisario. In a few cases, the ICRC found that individuals on the Polisario list were living peacefully in Moroccan territory or in Mauritania. The ICRC presented this information, along with documentation to the Polisario.

Prisoners held by the Polisario continued to be among the worlds' longest held POWs. In recent years, the Polisario began to release Moroccan POWs in small groups. The Polisario released 200 Moroccan POWs during the year. By year's end, the Polisario still held 412 POWs, many of whom had been prisoners for close to 20 years.

There continued to be credible reports from international organizations, Moroccan nongovernmental organizations (NGOs), and from the released POWs themselves that Moroccan POWs suffered serious physical and psychological health problems due to their prolonged detention, abuse and forced labor.

The number of persons in the refugee camps was in dispute. During the year, the Government claimed that the Polisario detained 45,000 to 50,000 Sahrawi refugees against their will in camps near Tindouf, Algeria. The Polisario claimed that refugee numbers were much higher, but denied that any refugees were held against their will. The U.N. High Commissioner for Refugees (UNHCR) and the World Food Program appealed to donors for food aid, and distributed food aid to a population of approximately 155,000 in the refugee camps during the year.

On August 30, the UNHCR completed a 6 month program of confidence building measures, highlighted by family visits that brought 1,200 persons to meet with long separated relatives for 5 days. Most participants were Sahrawi refugees from the refugee camps in Algeria visiting relatives in the Moroccan controlled territory. Approximately, 19,000 Sahrawis registered to participate in the program, and 1,476 persons were transported for visits. After a hiatus to secure additional funding and work out program modalities, the program resumed in November until the end of the year. The confidence building measures also include telephone exchanges between relatives in the territory and refugee camps in Algeria.

On January 7, King Mohammed VI pardoned 33 political prisoners, including the following: Salek Bazid, a member of the Moroccan human rights NGO Forum for Truth and Justice (FVJ), who was originally sentenced to 10 years in prison for participating in violent conflicts with police in Smara in November 2001 and according to Amnesty International (AI), his conviction was based solely on confessions that he later withdrew in court alleging that they were extracted under duress; Dkhil Moussaoui, another FVJ member, had been sentenced to 1 year in prison for partici-

pating in a demonstration that burned down a police station; Ahmed Nassiri, a member of the FVJ, had been serving a sentence of 18 months for instigating violence in Smara in 2001; and Ali Salem Tamek, an official of the Moroccan Democratic Confederation of Workers and a former FVJ member.

The Government restricted freedoms of expression, assembly, and association. Sahrawi activists claimed that they were unable to form political associations or politically oriented NGOs.

The Polisario reportedly restricted freedoms of expression, assembly, association, and movement in its camps near Tindouf.

Due to continuing Moroccan control of the territory, the laws and restrictions regarding religious organizations and religious freedom were the same as those found in Morocco.

Movement was restricted in areas regarded as militarily sensitive, both within the area controlled by the Government of Morocco and the area controlled by the Polisario. Both Moroccan and Polisario security forces at times subjected travelers to arbitrary questioning.

Sahrawis continued to have difficulty obtaining Moroccan passports. However, the Government issued activist Ali Salem Tamek a passport and allowed him to travel abroad. The Moroccan Government prevented Sahrawi nationalists, released from prison in Morocco, to live in the disputed territory.

Women were subjected to various forms of legal and cultural discrimination.

Morocco adopted a new law in May that imposes stiff fines and prison terms against those, including government officials, involved in or failing to prevent penalties on trafficking in persons. The territory was a transit region for traffickers of persons.

There was little organized labor activity. The same labor laws that apply in Morocco were applied in the Moroccan controlled areas of the territory. In June, a new Moroccan code of labor became effective. Moroccan unions were present in the areas controlled by Morocco, but were not active. The Polisario sponsored labor union, Sario Federation of Labor, also was not active since 15 percent of the Polisario controlled territory did not contain major population centers or economic activity, apart from nomadic herding.

There were no strikes, other job actions, or collective bargaining agreements during the year. Most union members were employees of the Moroccan Government or state owned organizations. They were paid 85 percent more than their counterparts in Morocco as an inducement to Moroccan citizens to relocate to the territory. Workers were exempt from income and value added taxes.

Moroccan law prohibited forced or bonded labor, including by children, and there were no reports that such practices occurred.

Regulations on the minimum age of employment were the same as in Morocco. Child labor was not a problem.

The minimum wage and maximum hours of work were identical to those in Morocco. However, in practice, during peak periods, workers in some fish processing plants worked as many as 12 hours per day, 6 days per week, well beyond the 10 hour day, 44 hour week maximum stipulated in the Moroccan code of labor. Occupational health and safety standards were the same as those enforced in Morocco, and were rudimentary, except for a prohibition on the employment of women in dangerous occupations.

OMAN

The Sultanate of Oman is a monarchy ruled by Sultan Qaboos Al Bu Sa'id, who acceded to the throne in 1970. In 1996, the Sultan issued a royal decree promulgating a Basic Law of the State, characterizing the country as "Arab" and "Islamic." The Basic Law provides that it can only be amended by Royal Decree. The country has no political parties; however, the Consultative Council (Majlis al Shura) is a representative advisory institution whose members are elected directly by voters. Unlike in previous years in which the Government selected voters, all adult citizens had the right to vote in the October 2003 Consultative Council elections. The elections were generally free and fair, and approximately 74 percent of registered voters (194,000) voted to elect the 83 members of the Consultative Council. The Sultan retained firm control over all important policy issues and had final authority over the election process. The Sultan also appointed 58 members to the State Council (Majlis al Dawla), which, along with the Consultative Council, forms the bicameral body known as the Council of Oman (Majlis Oman). The Basic Law provides for many

basic human rights, which are to be expressed "in accordance with this Basic Law and the conditions and circumstances defined in the law"; however, while not all legislation for implementation has been enacted, the responsibilities delineated in the Basic Law became effective in 1996 when it was enacted. In cases where there is no implementing legislation, judges render judgment according to the principles of the Basic Law. The Basic Law provides for an independent judiciary; however, it gives the Sultan the right to appoint and dismiss judges, as well as to overturn judicial decisions on appeal.

The Royal Office controls internal and external security and coordinates all intelligence and security policies. The Internal Security Service investigates all matters related to internal security. The Royal Oman Police (ROP), whose head also has cabinet status, performs regular police duties, provides security at airports, serves as the country's immigration agency, and maintains a small coast guard. The Government maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The country had a population of approximately 2.3 million, including approximately 559,000 foreigners. Based on the 2003 national census, the rate of population growth was 1.9 percent. Oil revenues were used to improve public access to health care, education, and social services for citizens. The GDP economic growth rate was 5.9 percent and the economy was mixed, with significant government participation in industry, transportation, and communications.

Although the Government respected a number of rights, many serious human rights problems remained. Citizens did not have the right to change their government, which is a "hereditary Sultanate." Police did not always follow procedures regarding arrest and detention, and, in some instances, police handling of arrest and detention constituted incommunicado detention. The Government restricted freedoms of speech, the press, assembly, and religion. Despite legislated equality, discrimination against women remained a problem due to social and cultural factors. At times, foreign workers in private firms were placed in situations amounting to forced labor, and abuse of foreign domestic servants was a problem. Workers rights were restricted.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.—The Basic Law prohibits such practices, and stipulates that all confessions obtained by such methods are to be considered null and void. There were no reported cases of voided confessions during the year.

Judges have the right to order investigations of allegations of mistreatment. There were no reports of such investigations during the year.

Prison conditions did not appear to meet international standards, and no visits by international human rights observers were requested. Prisoners have reported not having beds, and sleeping on the floor in crowded cells. While prisoners were fed regularly, they did not appear nutritionally sound. There were separate facilities for men and women, as well as separate facilities for juveniles and adults. Based on limited information, conditions for women did not appear to vary from those of men. Security prisoners were held separately and their conditions did not appear to vary from those of regular prisoners. Pretrial detainees also were held separately.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, there were problems in some areas.

The ROP broadly serves the country's security needs by encompassing such ancillary duties as customs, airport security, civil defense, and coast guard. Corruption was not perceived to be a widespread problem, and there were no instances in which the police failed to respond to societal violence.

The police are not required to obtain warrants prior to making an arrest. There were no reports of arbitrary detention. Within 48 hours of arrest, the police must either release the accused subject or refer the matter to the Public Prosecutor. The Prosecutor must then, within 24 hours, either formally arrest or release the subject. Authorities must obtain court orders to hold suspects in pretrial detention. Judges may order detentions for 14 days to allow investigation and may grant extensions if necessary. The authorities post the previous week's trial results near the magistrate court building. There was a functioning system of bail.

In practice, the police did not always follow legal procedures. Police handling of arrests and detentions constituted incommunicado detention in some instances. The police did not always notify a detainee's family or, in the case of a foreign worker, the worker's sponsor, of the detention. At times, notification was made just prior to the detainee's release. The police did not always permit attorneys and family members to visit detainees. Judges occasionally interceded to ensure that security officials allowed such visits.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The Basic Law provides for an independent judiciary; however, the various courts were subordinate to the Sultan. The Sultan appoints all judges, who serve at his discretion through royal decree. The Sultan can act as a court of final appeal and intercede in cases, such as those concerning national security. However, there were no reported instances in which the Sultan overturned a decision of the magistrate courts.

The court system is composed of the Supreme Court, an appeals court, primary courts (one located in each region), and, within the primary courts, divisional courts. Within each of the courts, there are divisions to consider commercial, civil, penal, labor, taxation, general, and personal status cases, such as divorce and inheritance (the latter under Shari'a law). The General Prosecutor's Office operates independently within the Ministry of Justice. An Administrative Court under the authority of the Diwan, or Royal Court reviews complaints against the misuse of governmental authority. During the year, the Administrative Court ruled against the Government in several cases brought by private parties, and increasingly was used as a check against governmental violations of the law. For example, in December, a landowner successfully sued he municipality for annexing part of his property.

The law provides for a fair trial, and the judiciary generally enforced this right. The Ministry of Justice administers all courts. All felonies are adjudicated at the Central Magistrate Court by a panel whose rulings are final, except for those in which the defendant is sentenced to death.

The Criminal Appeals Panel is composed of the President of the Magistrate Court, the court's vice president, and two judges. This panel hears appeals of rulings made by all courts of first instance. In the past, officers from the ROP received special training to carry out the role of public prosecutors in criminal cases; however, prosecutors now operate independently of the ROP.

A royal decree established criminal rules of procedure for criminal cases before the courts, providing rules of evidence, procedures for entering cases into the criminal system, and detailing provisions for a public trial. In criminal cases, the police provide defendants with the written charges against them, and defendants have the right to present evidence and confront witnesses. The prosecution and the defense direct questions to witnesses through the judge, who is usually the only person to question witnesses in court. The Basic Law provides for the presumption of innocence and the right to counsel. For defendants facing prison terms of 3 years or more, the law provides legal defense. Judges often pronounced the verdict and sentence within 1 day of the completion of a trial. Those convicted may appeal jail sentences longer than 3 months and fines over the equivalent of $1,250 (480 rials) to a three judge panel.

The State Security Court tries cases involving national security and criminal matters that require expeditious or especially sensitive handling. While an institution such as the Security Court functioned on an ad hoc basis in the past, two royal decrees in 2003 gave legal basis to the court. The Security Court procedures mirror closely those applicable elsewhere in the criminal system. The Sultan has exercised his powers of extending leniency, including in cases involving state security.

The Ministry of Justice administers Shari'a courts of the first instance and an appeals court, and applies Shari'a law in the most broadly accepted interpretation. Courts of first instance, with a single presiding judge, are located in each of the 59 wilayats, or governorates. The Court of Appeals rulings themselves may be appealed, within a 1 month period, to the Supreme Committee for Complaints, which is composed of four members, including the Minister of Justice and the Grand Mufti of the Sultanate. Shari'a courts handle all family law cases.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law provides flexibility in this area, which the Government utilized in practice.

Although it is not required by law, the police reportedly do obtain search warrants; however, the public prosecutor, not the court, issues them. There was a widely held view that the Government eavesdropped on both oral and written communications. Citizens were required to obtain permission from the Ministry of Interior to marry foreigners, except nationals of the Gulf Cooperation Council (GCC) coun-

tries, and permission was not granted automatically. Delays or denial of permission resulted in secret marriages within the country. Marriage in a foreign country may lead to denial of entry of the foreign spouse into the country, and prevent a legitimate child from claiming citizenship rights.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Basic Law provides for freedom of speech and of the press "within the limits of the Law"; however, the law and government practice generally restricted freedom of speech and of the press. The law prohibits criticism of the Sultan in any form or medium and prohibits the publishing of "material that leads to public discord, violates the security of the State, or abuses a person's dignity or his rights." Journalists and writers generally exercised self censorship due to fear of government reprisal. The authorities tolerated some criticism of government officials and agencies, particularly on the Internet; however, such criticism rarely appeared in the mass media. For example, the Internet chatroom, Al Sablah, occasionally contained messages criticizing the Ministry of Information and the Ministry of Social Development.

Censors enforced the Press and Publication Law, which authorizes the Government to censor all domestic and imported publications. Ministry of Information censors may act against any material regarded as politically, culturally, or sexually offensive. Editorials generally were consistent with the Government's views, although the authorities tolerated some criticism regarding foreign affairs issues. Citizens were publicly critical of GCC policies, which the country participates in determining. The Government discouraged in depth reporting on controversial domestic issues and sought to influence privately owned dailies and periodicals by subsidizing their operating costs. There were five daily newspapers, three in Arabic and two in English. Arabic language dailies "Al Watan" and "Shabiba" as well as the English daily "Times of Oman" were privately owned. There were 32 state owned and privately owned magazines published in the country.

In October 2003, journalists announced the creation of the Gulf Press Freedom Center (GPFC), which attempts to promote and defend a free press and human rights and aid journalistic professional development in the Gulf region. The GPFC is not an authorized organization in the country, but rather an informal network of concerned journalists in the Arab world. The GPFC had little effect on promoting free press in the region; however, its founder continued to monitor alleged abuses of freedom of the press, and bring such cases (Abdullah al Riyami and Mohamed al Harthi) to the media's attention. There were reports that various media houses refused to publish articles of these journalists for unknown reasons.

Customs officials confiscated videocassette tapes and erased offensive material, despite the lack of published guidelines regarding what was considered offensive. Such tapes may or may not have been returned to their owners. Government censorship decisions were changed periodically without any stated reason. During the year, the confiscation of books and tapes at the borders from private individuals and restrictions on popular novels reportedly eased somewhat.

The Government owned four radio stations and two television stations, which generally did not air politically controversial material. In August, the Government promulgated a new law allowing private radio and television companies. No companies have been created since the initial decree. Foreign broadcast information is accessible to those with the financial resources to obtain satellite dishes.

The appropriate government authority, the police, or a relevant ministry must approve public cultural events. Most organizations avoided controversial issues due to belief that the authorities might not approve their events.

The Government, through its national telecommunications company, made Internet access available, for a fee, to citizens and foreign residents. However, it blocked certain websites that it considered pornographic or politically sensitive. As use of the Internet for expressing views normally not permitted in other media grew, the Government took additional measures to monitor and censor it. The Government placed warnings on websites that criticism of the Sultan, or personal criticism of government officials, would be censored and could lead to police questioning, which increased self censorship.

The Government restricted academic freedom, particularly regarding publication or discussion of controversial matters, such as domestic politics. Professors could be dismissed if their work exceeded government boundaries; however, there were no reports of such dismissals during the year.

b. Freedom of Peaceful Assembly and Association.—The Basic Law provides for a circumscribed freedom of assembly "within the limits of the Law," and the Government restricted it in practice. There must be prior government approval for all public gatherings. The authorities, with rare exceptions such as demonstrations by

teachers protesting the lack of promotions and expatriate workers protesting nonpayment of back wages, enforced this requirement.

The Basic Law provides for freedom of association "for legitimate objectives and in a proper manner." In practice, the Government limited this freedom by the ability to prohibit associations whose activities are "inimical to the social order." The law states that the Ministry of Social Development must approve the establishment of all organizations and their by laws; however, some purely social or social welfare groups were allowed to function without formal registration. The Government used licensing to control the political environment; it did not license groups regarded as a threat to the predominant social and political views or the interests of the country. Formal registration of associations of expatriates was limited to a maximum of one association per nationality.

Several leaders of nongovernmental organizations (NGOs) received aggressively worded letters from the Government threatening sanctions, unless their organizations completed a complicated and time-consuming registration process. There were 13 NGOs registered. The average time required to register an NGO was at least 2 years.

The Basic Law provides for the formation of associations providing services to women, children, and the elderly. There were 42 government approved women's associations, some of which received limited government funding or in kind support, while others were self funded.

c. Freedom of Religion.—The Basic Law provides for freedom of religion; however the Government restricted religious freedom. The Basic Law provides that Islam is the state religion and that Shari'a is the source of all legislation. Most citizens are Ibadhi or Sunni Muslims, while a minority are Shi'a. The Government permits worship by non Muslim residents; however, non Muslim religious organizations must be registered with the Government, and some of their activities are restricted. They may not proselytize Muslims, or publish religious material in the country.

The Basic Law prohibits discrimination against citizens on the basis of religion or religious group. In the first quarter of 2003, the Ministry of Religious Affairs and Endowments launched a new quarterly periodical entitled "Tolerance." The magazine aims to highlight the tolerant aspects of Islam.

Non Muslims were free to worship at churches and temples built on land donated by the Sultan. The Government prohibited non Muslims from proselytizing, although proselytizing of non Muslims by Muslims was allowed. It also prohibited non Muslim groups from publishing religious material, although religious material printed abroad could be brought into the country.

Certain medical and educational activities by missionaries were permitted, as long as missionaries did not proselytize. Members of all religions and religious groups were free to maintain links with members abroad, and undertake foreign travel for religious purposes.

The Government required all imams to preach sermons within the parameters of standardized texts distributed monthly by the Ministry of Religious Affairs and Endowments. The Government monitored mosque sermons to ensure that imams did not discuss political topics, instigate religious hatred or divisions, and stayed within the state approved orthodoxy of Islam. The Government also monitored sermons of non Muslim clergy. There were reports of imams being suspended or dismissed for exceeding government boundaries.

For a more detailed discussion, see the 2004 International Religious Freedom Report

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, Repatriation, and Exile.—The law does not provide for these rights; however, the Government generally respected these rights in practice. The Government did not restrict travel by citizens within the country except to military areas. The Basic Law prohibits exile, and there were no reported cases during the year.

The Basic Law prohibits the extradition of political refugees, and there were no reports of the forced return of persons to a country where they feared persecution. The issue of the provision of temporary protection for refugees and asylum seekers did not arise during the year. Tight control over the entry of foreigners into the country effectively limited refugees and prospective asylum seekers from entering. Illegal immigrants numbering in the thousands, primarily from Iran, Pakistan, and Afghanistan, are apprehended annually by the ROP and the armed forces. The detainees are held in special detention centers until their deportation can be arranged. The Government seeks advice from the U.N. High Commissioner for Refugees (UNHCR). The law provides for the granting of refugee status or asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, although the country is not a state party to either the convention or the

protocol. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee or asylum status.

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

The law does not provide citizens with the right to change their government. The Sultan retains ultimate authority on all foreign and domestic issues.

The country's Basic Law provides for many basic human rights. Although it is considered to have had immediate force of law when promulgated in 1996, legislation and regulations to implement a number of its provisions have not been enacted. While family, judicial, administrative, and financial legislation has been enacted, much of it lacks the clarity of more developed legal systems. In cases where there is no implementing legislation, judges render judgment according to the principles of the Basic Law.

The law does not provide for political parties or direct elections, except to the Consultative Council. Citizens had indirect access to senior officials through the traditional practice of petitioning their patrons, usually the appointed local governor, for redress of grievances. Successful redress depended on the effectiveness of a patron's access to appropriate decision makers. Decisions of government ministers can be contested in the Administrative Court. The Consultative Council had the prerogative to invite certain government ministers for questioning, which it exercised during the year when the Minister of Commerce and Industry was called to testify regarding the high cost of building material.

Citizens 21 years or older (except military and security personnel) may vote. In 2003, over 800,000 citizens were eligible to register to vote and approximately 226,000 did so. 74 percent of registered voters, or roughly 194,000 persons, actually voted. A total of 506 candidates, including 15 women, competed in generally free and fair elections for the 83 Consultative Council seats. Of the 15 female candidates competing, 2 were elected. In October 2003, a royal decree also reappointed the incumbent President of the Consultative Council, although the Council elected two vice presidents from within its membership. The Sultan did not influence the nomination of the Consultative Council candidates.

The Consultative Council serves as a conduit of information between the citizens and the government ministries; however it has no formal legislative powers. Government ministries author nearly all draft legislation. No serving government official was eligible to be a Consultative Council member. The Consultative Council may question government ministers in public or in private, review all draft laws on social and economic policy, and recommend new laws or legislative changes to the Sultan, who makes the final decision. During the year, the membership of the State Council increased from 53 to 58 members, and included 9 women. The precise responsibilities of the State Council and its relationship to the existing Consultative Council have yet to be clarified. The State Council and the Consultative Council together form the Majlis Oman, or Council of Oman. In October 2003, a royal decree extended the term of office for members of the Council to 4 years.

Between March 2003 and year's end, the first 4 female ministers were appointed to the 42 member Cabinet. Women hold the ministerial posts at the Public Authority for Craft Industries, the Ministry of Social Development, the Ministry of Higher Education, and the Ministry of Tourism. There was one female undersecretary and one female ambassador. There were 2 female members of the Consultative Council, and 3 women served on its 12 member Main Election Committee.

Some Shi'a occupied prominent positions in both the private and public sectors. For example, the Ministers of National Economy (also de facto Minister of Finance), Commerce and Industry, and Health are Shi'a.

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

There were no registered domestic human rights NGOs, and no government controlled or autonomous human rights entities in the country.

In June, a representative of the NGO Freedom House visited the country, and, in August, a two person delegation from Amnesty International (AI) visited the country. However, the Government stated AI did not give officials ample time to prepare an appropriate program for the AI visit.

Section 5. Discrimination, Societal Abuses, and Trafficking In Persons

The Basic Law prohibits discrimination against citizens on the basis of sex, ethnic origin, race, language, religion, place of residence, and social class; however, the Government did not effectively enforce these provisions. Societal and cultural discrimination based on gender, race, social class, and disability existed.

Women.—The law does not specifically address domestic violence against women; however, Shari'a prohibits all forms of physical abuse. There was no evidence of a pattern of spousal abuse, although observers claimed that allegations of such abuse in the Shari'a courts were common, and conversations with local observers indicated that domestic violence was a real concern. Battered women may file a complaint with the police, but often sought family intervention to protect them from violent domestic situations. Likewise, families sought to intervene to keep such problems from public view. There were reports of employers sexually abusing domestic servants, and co workers physically harassing hospital nurses without being held accountable for such actions (*see* Section 6.e.). There were no government programs for abused women. The law prohibits rape, and the Government enforced the law effectively.

Prostitution was illegal, and generally was rare due to strict cultural norms and immigration controls.

There is no law prohibiting female genital mutilation (FGM); however, experts believed that the number of such cases was small and declining.

While progress has been made in changing laws and attitudes, women continued to face many forms of social discrimination.

Illiteracy among older women hampered their ability to own property, participate in the modern sector of the economy, or inform themselves of their rights. Women may own property; however, government officials frequently denied women land grants or housing loans and preferred to conduct business with a woman's husband or other male relative.

Some aspects of Islamic law and tradition as interpreted in the country also discriminated against women. Shari'a favors male heirs in adjudicating inheritance claims. Many women were reluctant to take an inheritance dispute to court for fear of alienating the family. Women married to noncitizens may not transmit citizenship to their children.

Women have equal opportunities for education. The ratio of female to male enrollment was equal in primary education. A 2003 UNICEF report praised the country's achievements in closing the gender gap in education. In addition, female students represent 63 percent of the national undergraduates studying abroad. Educated women have attained positions of authority in government, business, and the media. Approximately 33 percent of all civil servants were women. In both the public and private sectors, women were entitled to maternity leave and equal pay for equal work. The Government, the country's largest employer of women, observed such regulations, as did many private sector employers. However, many educated women still faced job discrimination. The Ministry of Social Development is the umbrella ministry for women's affairs. The Ministry provided support through the Oman Women's Association and local community development centers.

Children.—The Government has made the education, health, and general welfare of children a budgetary priority. Primary school education for children, including noncitizen children, was free and universal, but not compulsory. Primary school enrollment was 65 percent. Most children attended school through secondary school. The infant mortality rate continued to decline, and comprehensive immunization rates rose. The Government provided free health care for all children up to 6 years of age. There were no public reports of violence against children; however, the Government has called publicly for greater awareness and prevention of child abuse. FGM was not common (*see* Section 5, Women).

The Government formed a National Committee on the Rights of the Child (NCRC) to monitor the country's compliance with the U.N. Convention on the Rights of the Child. In April, a royal decree ratified two optional protocols to the Convention on the Rights of the Child: The Protocol on the Sale of Children, Child Prostitution, and Child Pornography, and The Protocol on the Involvement of Children in Armed Conflict.

There were no reports of child prostitution. Child labor existed in the informal, subsistence, and family business sectors of the economy; however, it was not a problem in the organized labor market (*see* Section 6.d.).

Trafficking in Persons.—The law does not prohibit trafficking in persons; however there were no reports that persons were trafficked to, from, or within the country.

Persons With Disabilities.—There was no government discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services.

There is no legislated or otherwise mandated provision requiring access to public buildings for persons with disabilities; however, the Government has encouraged, with modest success, public facility accommodation of persons with disabilities. The Labor Law stipulates that enterprises employing more than 50 persons should have

at least 2 percent of the jobs earmarked for persons with disabilities; however, this regulation was not widely enforced. There was a government sponsored rehabilitation center in the capital, and there were 17 private rehabilitation centers throughout the country. A few persons with disabilities, including blind persons, worked in government offices. Persons with disabilities generally were not charged for physical therapy and prosthetics.

National/Racial/Ethnic Minorities.—The Basic Law prohibits discrimination against citizens based on racial or ethnic characteristics. Citizens of African origin sometimes claimed that they faced job discrimination in both the public and private sectors, although these allegations have diminished over several years.

Other Societal Abuses and Discrimination.—While there were no reports of official discrimination against persons with HIV/AIDS, societal attitude in the country remained fearful towards persons with the disease. A "Peer Education" pilot project promoted by the Ministry of Health and initiated in the Muscat area attempted to improve awareness and education on the disease among youth. In December 2003, a toll free AIDS hotline was inaugurated, and was fielding 50 to 100 calls per month.

Section 6. Worker Rights

a. The Right of Association.—The law does not provide workers with the right to form or join unions; however, workers in any establishment may form a representational committee with the goal of taking care of their interests, defending their rights, and representing them in all matters related to their affairs. Fifteen companies have held elections to their representational committees, and 7 have been certified by the Ministry of Manpower.

b. The Right to Organize and Bargain Collectively.—The Labor Law does not address strikes; however, the labor law details procedures for dispute resolution. Labor unrest was rare. Strikes are permitted; however, there were none during the year.

The law does not explicitly provide for the right to collective bargaining. The law requires that employers of more than 50 workers form a joint labor management committee as a communication forum between the groups. Implementation of this provision was uneven, and the effectiveness of the committees was questionable. Membership in the administrative body is terminated if members "commit any act that causes material or moral harm to the committee or the establishment or its workers or the public interest of the Sultanate." In addition, committees are prohibited from accepting grants from noncitizens and from traveling outside the country without approval from the ministry.

New rules relating to domestic employees were stipulated in Ministerial Decision 189. According to the new decision, the employee has the right to end a contract if he or she proves that the employer or a family member assaulted him or her. It also stipulates that employees should be paid within 7 days of the end of each month, and should receive free food, accommodation, and medical treatment. Employees have the right to take disputes to the Labor Welfare Board. The Labor Welfare Board attempts to mediate disputes between employers and employees. If a settlement cannot be reached, the parties may seek recourse in the appropriate courts.

Work rules must be approved by the Ministry of Manpower and posted conspicuously in the workplace by employers of 15 or more workers. Government inspectors occasionally performed random inspections to enforce implementation of these regulations. Similarly, any employer with 50 or more workers must establish a grievance procedure. Employees, including foreign workers, may file a grievance with the Labor Welfare Board, which functions as a mediator between employee and employer. In some cases, worker representatives were able to file collective grievances. Should mediation fail, cases may be referred to court; however, this occurred infrequently. Lower paid workers used the procedure regularly. Legal counsel may represent plaintiffs and defendants in such cases. Workers frequently took their cases to the courts, but since many of the companies that had not paid wages were bankrupt, it was difficult to collect judgments.

There were no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including of children; however, there were reports that such practices occurred. The Government did not investigate or enforce the law effectively. Foreign workers at times were placed in situations amounting to forced labor. Employers have withheld documents that release workers from employment contracts and allow them to change employers. Without such a letter, a foreign worker must continue to work for his current employer or become technically unemployed, which was sufficient grounds for deportation. Many foreign workers were not aware of their right to take such disputes before the Labor Welfare Board. Others were reluc-

tant to file complaints for fear of retribution from unscrupulous employers. In most cases, the board released the worker from service without deportation and awarded compensation for time worked under compulsion. In addition to reimbursing the worker's back wages, guilty employers were subject to fines.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law specifically prohibits forced or compulsory labor by children, and there were no reports that such practices occurred.

In April 2003, the Government raised the minimum age for children to work from 13 to 15 years. For certain hazardous occupations, the minimum employment age is 18 years. Children 15 to 18 years of age may be employed, but they cannot work at night, on weekends, or holidays. The Ministry of Manpower generally enforced the law; however, in practice, enforcement often did not extend to some small family businesses that employ underage children, particularly in the agricultural and fishing sectors.

Child labor did not exist in any formal industry. Although some children participated in camel races, there were no reports of child camel jockey abuses. In rare instances where children who normally raced camels free of charge were paid, it was not illegal and did not constitute child labor. The NCRC recommended raising the minimum age of child camel jockeys from 12 to 15 years.

e. Acceptable Conditions of Work.—The Ministry of Manpower issues minimum wage guidelines for various categories of workers. The suggested minimum wage for most citizens is approximately $260 (100 rials) per month, plus $52 (20 rials) for transportation and housing. Minimum wage guidelines did not apply to a variety of occupations and businesses, including small businesses that employed fewer than five persons, the self employed, domestic servants, dependent family members working for a family firm, and some categories of manual labor. Many foreigners worked in occupations that were exempt from the minimum wage guidelines; however, highly skilled foreign workers were well paid. The minimum wage was insufficient to provide a decent standard of living for a worker and family.

The private sector workweek was 40 to 45 hours; it included a rest period from Thursday afternoon through Friday. Government workers have a 35 hour workweek. While the law does not designate the number of days in a workweek, it requires at least one 24 hour rest period per week and mandates overtime pay for hours in excess of 48 per week. Government regulations regarding hours of employment were not always enforced. Employees who worked extra hours without compensation could file a complaint with the Labor Welfare Board; however, the board's rulings were not binding.

Every worker has the right to 15 days of annual leave during the first year of continual employment and 30 days per year thereafter.

The law states that employers must not place their employees in situations involving dangerous work; however, the law does not specifically grant a worker the right to remove himself from dangerous work without jeopardy to his continued employment. All employers were required by law to provide first aid facilities. Employees covered under the labor law could recover compensation for job related injury or illness through employer provided medical insurance. Inspectors from the Department of Health and Safety of the Directorate of Labor generally enforced the health and safety standard codes. As required by law, they made regular onsite inspections. During the year, there were no reports of significant problems.

Foreign workers constituted at least 50 percent of the work force and as much as 80 percent of the private sector work force. There continued to be reports that employers or male coworkers sexually harassed and abused foreign females employed as domestic servants and hospital nurses. Foreign women, employed as domestic servants and garment workers, have claimed that their employers withheld their salaries, and that government officials were unresponsive to their grievances, due to investigative procedures that disadvantaged the victim. Foreign female workers at times had to ask their governments' embassies for shelter to escape abuse (*see* Section 5). Many South Asian governments provided repatriation for destitute nationals.

QATAR

Qatar is a monarchy governed by the ruling Al-Thani family through Emir Sheikh Hamad bin Khalifa Al-Thani, who seized power from his father in 1995. The Emir exercises full executive power based on the influence of religious law, consultation

with citizens, and rule by consensus. The Emir generally legislates after consultation with leading citizens, an arrangement institutionalized in the appointed 35-member Advisory Council that assists the Emir in formulating policy. A draft of a new Constitution, approved in April 2003 by approximately 96 percent of voters, was ratified by the Emir on June 6 and will come into force in June 2005, during which constitutional institutions, laws, and regulations will be brought into conformity with it. The new Constitution provides for continued hereditary rule by the Emir's branch of the Al-Thani family. In April 2003, citizens elected all 29 members of the Central Municipal Council, which advises the Government on domestic issues but does not have the authority to change policy. The elections were generally regarded as free and fair, although only 30 percent of eligible voters participated. The Constitution provides for an independent judiciary; however, the Emir appoints all judges based on the recommendations of the Supreme Judiciary Council.

The civilian security force, controlled by the Ministry of Interior, consists of the police and the General Administration of Public Security. The civilian intelligence service, Qatari State Security, reports directly to the Emir and performs internal security investigations, gathers intelligence, and has primary responsibility for sedition and espionage cases. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The country's economy is based on gas and oil exports. The population is approximately 744,000, of whom approximately 200,000 are citizens. The Government owns most basic industries and services, but the retail and construction industries are privately owned. Foreign workers, mostly South Asian and Arab, represent approximately 85 percent of the workforce. Many government jobs are offered generally to citizens, and private sector businesses are encouraged to recruit citizens as well. The rate of economic growth was 20.5 percent, an estimated 35 percent increase from the previous year. GDP per capita was USD 37,000. Although there was not sufficient economic data available, local economists and bank officials claimed that wages did not keep pace with inflation nor with rapidly rising housing rents. Inflation did not appear to impact basic foodstuffs but consumer commodities like automobiles, furniture and basic amenities increased moderately. In 2003, the Government started a major initiative to combat corruption in government procurement. Corruption has had limited impact on the country's economic growth and development. However, government agencies and state-owned entities were increasingly sensitive to appearances of corruption and worked to establish more open and transparent processes.

Although there were some improvements in a few areas, serious problems remained. Citizens did not have the right to peacefully change their government. The Government continued to restrict the freedoms of speech and press. The Government placed some limits on the freedom of movement of women. In practice, tradition and custom limited women's rights. Some domestic servants, who are not covered under the new labor law, were mistreated and abused and worked under conditions that were tantamount to indentured servitude. Noncitizens, who make up more than 75 percent of local residents, sometimes faced discrimination in the workplace. Foreign laborers were disadvantaged in cases involving the performance of labor contracts. They did not receive the same allowance and salaries that were given to citizens in equivalent positions. Further, they were not allowed to leave the country or change employment without the permission of their current sponsor. Unskilled foreign workers continued to suffer from the lack of a minimum wage in the private sector. The country was also a destination for trafficked persons.

Unlike the 1972 Amended Provisional Constitution, the new Constitution contains a number of human rights provisions. Most of these provisions will depend, for their practical effect, on existing or future laws. The process of law-making to conform the legal environment to the new Constitution continued at varying pace in different sectors during the year. The Government advanced the right of assembly in November with the enactment of Law No. 18, which allows individuals to organize demonstrations and public assemblies. However, the law stipulates that organizers must acquire a permit, for which there are a number of restrictions and conditions, and imposes restrictions on the topics of discussion. In May, the Government enacted Law No. 12, which regulates the right to form private societies and institutions. Law No. 12 also allows individuals, for the first time, to establish professional societies for the purpose of elevating the level of the profession. While Law No. 12 endorses the participation of citizens and non-citizens alike, it imposes conditions and restrictions on non-citizens who want to practice this right. During the last 6 months of the year, progress was made in establishing the conditions for implementation of the new labor law, to be enacted in January 2005. Although this new labor law expands and protects workers' rights in some areas, in others the new law is

restrictive. The law prohibits non-citizen workers from forming labor unions or associations, and restricts the rights to bargain collectively and strike. Also, in March, the Government enacted Law No. 2, which guarantees the rights of persons with disabilities and ensured their entitlement to government services to include among others: Education, healthcare and employment.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture, and there were no reports that government officials employed torture. However, the Government administered most corporal punishment prescribed by its interpretation of Islamic law but did not allow amputation. Punishments were not administered publicly.

The Government permitted the independent monitoring of prison conditions. In July, Amnesty International (AI) conducted one visit. According to the National Human Rights Committee (NHRC), a government-funded human rights non-government organization which conducted three visits to the men and women prisons during the year, prison conditions generally met international standards. In August, diplomatic officials also conducted a visit to the men and women deportation center in August and found conditions there met international standards.

Women were held separately from men, and juveniles were held separately from adults. Pretrial detainees were held separately from convicted prisoners. Security prisoners were also held separately in special prisons.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice; however, in some cases these rights were restricted by Law No. 17 of 2002, which was used to "protect society."

Suspects are charged within 48 hours and must appear before a judge within 4 days of their arrest. The judge may order the suspect released, remanded to custody to await trial, held in pretrial detention pending investigation, or released on bail. Judges may also extend pretrial detention for 1 week at a time to allow the authorities to conduct investigations. The accused is entitled to legal representation throughout the process. There were no provisions for state funded legal counsel for indigents. Suspects who were detained in security cases generally were afforded access to counsel; however, they may be detained indefinitely while under investigation.

Law No. 17 is aimed specifically at the "protection of society" and provides official exemption from the prohibition of arbitrary arrest and detention and the code of criminal procedure. The law empowers the Minister of Interior to detain a defendant on crimes related to national security, honor, or impudence upon the recommendation of the Director General of Public Security. Under this statute, the detention period can range from 2 weeks to 6 months. Moreover, that period can be extended up to 2 years at the discretion of Ministry of Interior officials. The prime minister adjudicates complaints against these detentions. According to human rights officials, there were eight cases of individuals arrested under this law during the year. Five of the individuals were released after follow-up from the NHRC organization that promotes the observance and protection of human rights and basic freedoms. Three remained in detention for 6 months and were then transferred to the courts. They were convicted and, at years end, were waiting the appeal of their cases. In addition, since June, nine men were held in detention at the central jail due to their nationality being revoked. There were no cases of incommunicado detention.

The Ministry of the Interior controls the police forces, which include the Coast Guard and Border Police, Fire Department, and Immigration Authorities. They generally were effective, and corruption and abuse of power were minimal. The Ministry of the Interior has an Office of Human Rights in its Legal Department to deal primarily with labor and issues involving trafficked persons.

e. Denial of Fair Public Trial.—Although the Constitution provides for an independent judiciary, approximately half of the judges were foreign nationals holding residence permits granted by the civil authorities. All judges held their positions at the discretion of the Government. The Emir appoints all judges based on the recommendation of the Supreme Judiciary Council.

The Adlea (Civil Law) courts and Shari'a (Islamic law) courts have been united under the Supreme Judiciary Council. Since 2002, with the enactment of Law No.

10, general prosecutors have been independent from the authority of the Ministry of Interior.

Before the merging of the Adlea and Shari'a courts in October, the Adlea courts had jurisdiction in commercial, national security, trafficking, and criminal matters. The Shari'a courts had jurisdiction in family, inheritance, deportation, wrongful injury, and most other civil cases. The law provides for the establishment of occasional state security courts, although there have been no cases before these courts since the Emir assumed power. Defendants tried by all courts have the right to appeal. In October, the High Court of Cassation was established as the highest appellate court in the country.

The Shari'a courts applied most principles contained in the draft Family Status Law, which covers marriage, inheritance, and juvenile matters. Shari'a trials usually were brief. Shari'a family law trials often were held without counsel; however, an increasing number of litigants, especially women, had legal representation. As of October, there were no separate Shari'a trials with the merging of the Adlea and Shari'a Courts.

Criminal cases normally were tried within 2 to 3 months after suspects were detained. Suspects are entitled to bail, except in cases of violent crime. Foreigners charged with minor crimes can be released to a citizen sponsor, although they are prohibited from departing the country until the case is resolved. Defendants in the civil courts have the right to legal representation.

Both Muslim and non-Muslim litigants may request the Shari'a courts to assume jurisdiction in family, commercial, and civil cases. Court trials are public, but the presiding judge can close the courtroom to the public if the case is deemed sensitive. Lawyers prepare litigants and speak for them during the hearing. Non-Arabic speakers are provided with interpreters. Defendants are entitled to legal representation throughout the trial and pretrial process. Shi'a and Sunni judges apply their own interpretations in cases involving issues of family status and inheritance. There is an adequate number of both Shi'a and Sunni judges to accommodate their population and their population respects their decisions.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Traditional attitudes of respect for the sanctity of the home and the privacy of women provided protection against arbitrary intrusion for both citizens and noncitizens. Judicial authorities must grant warrants before police may search a residence or business, except in cases involving national security or emergencies. There were no reports of unauthorized searches of homes during the year. The police and security forces were believed to monitor the telephone calls of suspected criminals, of those considered to be security risks, and of selected foreigners.

Citizens must obtain government permission to marry foreigners and to apply for residence permits or citizenship for their spouses. Such permission generally was granted for male citizens. In practice, female citizens were not able to provide citizenship for their husbands.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, the Government imposed some restrictions on these rights in practice. Journalists continued to practice self-censorship due to social and political pressures when reporting on government policies, the ruling family, and relations with neighboring states.

Citizens expressed many of their views freely and in public, although they avoided discussing sensitive political and religious issues. The larger noncitizen population did not express itself as freely or as publicly. Toward the end of the year the Government initiated a series of public debates, called the "Doha Debates" addressing political issues of the day, such as separation of mosque and state and regional democratic reform. The Government did not prosecute anyone for the expression of views considered offensive.

Newspapers are not state-owned; however, the owners or board members generally are either high-level government officials or have ties to government officials. Copies of foreign newspapers and magazines were censored for explicit sexual content.

The Censorship Office in the Qatar Radio and Television Corporation reviewed materials for pornography and material deemed hostile to Islam, reports on government policies, and the ruling family. There were no reports of political censorship of foreign print or broadcast news media or foreign programs.

Customs officials screened and censored imported print and electronic media for items on government policies and the ruling family, but officials no longer blocked the personal importation of non-Islamic religious items (*see* Section 2.c.). The law

provides for criminal penalties and jail sentences for libel. All cases involving the media fall under the jurisdiction of the criminal courts.

State-owned television and radio reflected government views, but the satellite television network, Al Jazeera Satellite Channel (JSC), provided an internationally oriented perspective that JSC and the Government both claimed to be free of government influence. JSC was government subsidized but independent. JSC programs generally did not cover local news. Callers to a popular morning show on the state owned radio frequently discussed topics such as government inefficiency and the lack of responsiveness by various ministries to citizens' needs, such as poor schools, failure to deliver adequate water and sewage services, and problems with the health care system.

The Government censored the Internet for religious reasons and pornographic content through a proxy server, which blocked websites containing certain key words and phrases. A user who believed that a site was censored mistakenly could submit the Web address to have the site reviewed for suitability.

The Constitution provides for freedom of opinion and scientific research; however, there was no tradition of academic freedom, and instructors at the University of Qatar exercised self-censorship.

b. Freedom of Peaceful Assembly and Association.—Law No. 18, enacted in November, provides for and regulates freedom of assembly; however, a permit is required for such public gatherings. A number of restrictions and conditions must be met in order to acquire a permit, one of which is the permission of the Public Security director general, whose decision is immune from appeal. The Government generally did not allow political demonstrations.

A new statute, Law No. 12, regulates the right to form private societies and professional associations, and the Government severely limited this right in practice. The law allows for the participation of non-citizens in private societies only in cases where their participation is deemed necessary to the work of the society. Law No. 12 also imposes strict conditions for the establishment, management, and function of these societies and associations. Among others, they are prohibited from engaging in political matters and must get approval from the Ministry of Civil Service Affairs and Housing, which can deny their establishment if deemed a threat to the public interest. Also, in the cases of professional societies, they must pay approximately $14,000 in licensing fees and their permits are valid for only a 3-year period, after which time they must renew their license and pay the same fees. The Government did not allow political parties or international professional organizations critical of the Government or of any other Arab government. Security forces monitored the activities of such groups.

c. Freedom of Religion.—The Constitution provides for freedom of worship, in accordance with the law and the requirements of protecting the public system and public behavior; however, the Government continued to prohibit proselytizing of Muslims by non-Muslims and placed some restrictions on public worship.

The state religion is Islam, as interpreted by the conservative Wahhabi order of Sunni Islam. Both Sunni and Shi'a Muslims practiced Islam freely. Shi'a Muslims did not organize traditional Shi'a ceremonies or perform rites such as self flagellation in public, but did so in their own mosques. Shi'a Muslims were permitted to build and decorate Shi'a mosques without restrictions.

The Government and the ruling family are linked inextricably to Islamic institutions and practices. The Ministry of Islamic Affairs administers the construction of mosques, clerical affairs, and Islamic education for adults and new converts. The Ministry of Education administers Islamic Education in the public schools. The Emir participated in public prayers during both Eid holiday periods, and personally financed the Hajj journeys of poor pilgrims.

Shi'a Muslims were well represented in the bureaucracy and business community, but there were no Shi'a employed in senior national security positions.

The Government has given legal status to Catholic, Anglican, Orthodox, Coptic, and many Asian Christian denominations; other Christian congregations may request recognition. However, the Government does not allow the building of any new places of worship without permission. It has provided congregations with registration numbers that allow them to open bank accounts and sponsor clergy for visas. The Emir designated land in Doha for the construction of Christian churches; however, Christian religious leaders had not applied to the Municipal Council for building permits by year's end.

Non-Muslims may not proselytize; however, the Government no longer places restrictions on public worship by non-Muslims. Converting from Islam was considered apostasy and was technically a capital offense; however, since 1971, there have been no records of prosecution for such a crime.

The Government did not permit Hindus, Buddhists, Bahai's, or members of other religions to operate as freely as Christian congregations. However, there was no official effort to prevent adherents of these faiths from practicing privately.

Individuals were not prevented from importing Bibles and other religious items for personal use. Government officials only monitor Islamic religious literature and copies of the Koran. Religious materials for use at Christmas and Easter were available readily in local shops. However, Bibles were not available in Arabic.

Islamic instruction was compulsory in public schools. While there were no restrictions on non-Muslims providing private religious instruction for children, most foreign children attended secular private schools.

There were no acts of physical violence against or harassment of Jewish persons; however, some anti-Jewish sentiments were expressed in cartoons in local Arabic newspapers.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice; however, there were some notable exceptions. There were no restrictions on internal travel, except around sensitive military and oil installations. In general, women over 30 years old did not require permission from male guardians to travel; however, men may prevent female relatives and children from leaving the country by providing their names to immigration officers at ports of departure. Technically, women employed by the Government must obtain official permission to travel abroad when requesting leave, but the extent to which this regulation was enforced was not known. The Government did not allow noncitizen custodial parents to take their children out of the country without the permission of the citizen parent. Citizens critical of the Government sometimes faced restrictions on their right to travel abroad.

The Constitution prohibits forced exile of citizens. However, there were reports of increasing numbers of citizens whose nationality has been revoked toward the end of the reporting period. This policy created "stateless" persons. Once their nationality is revoked, these individuals automatically lose their jobs, and they and their families are no longer eligible to receive government assistance—that is, access to free education, healthcare, government loans, land, housing, and employment.

The Constitution provides that citizens have the right to return. Foreigners were subject to restrictions on entry and exit designed to control the size of the local labor force (*see* Sections 6.c. and 6.d.). Foreign women who are married to citizens were granted residence permits and may apply for citizenship; however, they were expected to relinquish their foreign citizenship.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. Those attempting to enter the country illegally, including persons seeking asylum from nearby countries, were refused entry. Asylum seekers who were able to obtain local sponsorship or employment were allowed to enter and may remain as long as they are sponsored.

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

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

During the year, the country took some steps toward more democratic governance by enacting some of the changes called for in the new Constitution, and the legal and institutional environment was evolving; however, citizens do not have the right to peacefully change their government. The new Constitution provides for a more democratic political system, hereditary rule by the Emir's branch of the Al-Thani family, and legislative authority to be vested in normal circumstances in an Advisory Council with 30 elected members and 15 members appointed by the Emir. National elections for the 30 seats are expected to be announced in 2005, to be followed by the holding of elections in late 2005 or early 2006. The influence of Bedouin tribal traditions was still strong, and the Government did not permit political parties or organized opposition groups.

The Emir exercises most executive powers, including appointment of cabinet members. In 2003, citizens elected all 29 members of the Central Municipal Council, a nonpartisan body that addresses local issues such as street repair, green space, trash collection, and public works projects. Its role is to advise the Minister of Municipal Affairs and Agriculture. The Council does not have the authority to change

policy. The elections were generally regarded as free and fair, although only 30 percent of eligible voters participated.

Influence of traditional attitudes and roles continued to limit women's participation in politics; however, there are currently a number of women serving in public office: Sheikha bint Ahmed al-Mahmud as Minister for Education and Teaching; Sheikha Aisha bint Khalifa Al-Thani, member of the ruling family, is president of the Election Committee; and Sheikha Ghalia bint Mohammad bin Hamad Al-Thani, also a member of the ruling family, is Deputy Chairperson of the National Human Rights Commission. There was also one woman serving on the Central Municipal Council. A woman is the President of the University of Qatar. The Emir's sister is Vice President of the Supreme Council of Family Affairs and also has the rank of Minister.

The Government did not deny access to information but most was not readily available, particularly statistical data. The Government publishes all of its laws in the official gazette; however, it had not developed sufficient resources to facilitate the publication or access to economic statistics, demographical data, or draft legislation being analyzed or considered by the government or Advisory Council. Government officials shared draft legislation with select industry representatives for comment, but this information was not open to all companies or interested parties. The Ministry of Economy and Commerce and Qatar Central Bank provided published materials on laws and procedures for the public, but these efforts were not consistent throughout the Government. Individuals and private institutions can request this information from the ministries and the Planning Council.

The lack of transparency in government procurement was an issue of concern. Some companies expressed concerns about government procurement, particularly the lack of clarity in the conditions and criteria of the tender, proper notification or explanation for companies that did or did not qualify for tenders, and the inability to challenge awards.

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

Law No. 18 enacted in November provides for the right to form private independent societies and associations; however, currently there were no independent human rights groups that exist in the country. The NHRC comprised of members of both government ministries and civil society was established by governmental decree in May to investigate and improve local human rights conditions. The NHRC held numerous training workshops for government officials. Participants included those from the Ministry of Interior, Ministry of Defense, State Security Organization, Public Prosecution and the Courts. The NHRC also successfully managed to help three Arab expatriates to be released from jail. During the year, AI twice visited the country to investigate conditions in the country.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination in the workplace; however, institutional, cultural, and legal discrimination based on gender, national origin, and social status existed.

Women.—The official interpretation of Shari'a prohibits all forms of physical abuse. According to a local quasi-governmental organization on family issues, domestic violence against women occurred, but was not widespread. During the year, there were no publicized arrests or convictions for domestic violence. The maximum penalty for rape was death. Shari'a provides no punishment for spousal rape.

Some employers mistreated foreign domestic servants, especially those from South Asia and the Philippines (*see* Section 6.e.). Foreign embassies provided temporary shelter for 48 hours to their nationals who left their employers as a result of abuse or disputes before transferring the case to local government officials. According to source country embassies, the majority of cases were resolved amicably within 48 hours. Those not resolved within 48 hours were transferred to the Criminal Evidence and Investigation Department (CEID) of the Ministry of Interior for a maximum of seven days. Cases not resolved within 7 days were transferred to the court. According to the Indonesian Embassy, 669 housemaids reported mistreatment by their employers during the year. Complaints included sexual harassment, physical torture, overwork, imprisonment, and maltreatment. Abused domestic servants usually did not press charges for fear of losing their jobs.

The legal system allows leniency for a man found guilty of committing a "crime of honor," or a violent assault against a woman for perceived immodesty or defiant behavior; however, such honor killings are rare and none occurred during the year.

Traditions and the interpretation of Shari'a law restricted the activities of women. The Government adhered to an interpretation of Shari'a that recognizes that Mus-

lims have the automatic right to inherit from their Muslim spouses; however, non-Muslim spouses (invariably wives, since Muslim women cannot legally marry non-Muslims) do not inherit unless their spouse formally wills them a portion (up to one third of the total) of their estates. A Muslim husband does not automatically inherit the property of a non-Muslim wife. Muslim wives have the right to inherit from their husbands; however, they inherit only one-half as much as male relatives. In cases of divorce, young children usually remain with the mother, regardless of her religion.

Women may attend court proceedings but generally are represented by a male relative; however, women may represent themselves if they wish. The testimony of two women equals that of one man, but the courts routinely interpret this on a case-by-case basis. A non-Muslim woman is not required to convert to Islam upon marriage to a Muslim; however, many make a personal decision to do so. A noncitizen woman is not required to become a citizen upon marriage to a citizen. Children born to a Muslim father are considered to be Muslim.

Many women serve as senior professionals in government service, education, health, and private business. Women made up 14.2 percent of the overall workforce, and 26 percent of the local national workforce, including as university professors, public school teachers, and police. Women appeared to receive equal pay for equal work; however, they often did not receive equal allowances, which generally covered transportation and housing costs.

Although women above 30 years of age legally were able to travel abroad alone (*see* Section 2.d.), tradition and social pressures caused most women to travel with male escorts.

With the enactment of Law No. 12 in November, women have the right to form independent women's rights organizations. Prior to and since the enactment of this law, the Supreme Council for Family Affairs sought to improve the status of women and the family under both civil and Islamic law. The Council contributed to a number of national and international conferences, studies, and reports on the status of women in the country. The Council established five organizations that deal with women and children issues: The Women and Children Protection Committee, the Family Consulting Center, the Motherhood and Childhood Cultural Center, the Orphans Care Center, and the Qatar Society for Senior Citizens Care. The Children and Women Protection Committee handled more than 100 cases involving children, education, health, nationality, abuse, and custody. The Committee was successful in resolving 90 percent of these cases.

Children.—The Government is committed to the welfare of citizen children. The Government provided for a well funded, free public education system (elementary through university) and a complete medical protection program. Education was compulsory for citizens (both boys and girls) through the age of 15. Education through primary school (the equivalent of ninth grade) was compulsory and free for all citizen children and for noncitizen children whose parents worked in the government sector. Medical coverage for noncitizen children was limited. The lack of primary educational and medical services to non-citizen children caused hardship for a substantial part of the expatriate population living in the country.

There was no societal pattern of abuse of children, apart from the trafficked, juvenile camel jockeys (*see* Section 5, Trafficking).

The Women and Children Protection Committee of the Supreme Council for Family Affairs maintained a children's hotline called the Friendly Line for use by children. The system allowed both citizen and noncitizen children to call with questions and concerns ranging from school, health, and psychological problems to concerns about sexual harassment.

Trafficking in Persons.—The law prohibits trafficking for persons; however, men and women were trafficked into situations of coerced labor, and male children were trafficked into the country to serve as jockeys in the camel races. In December, the Cabinet approved measures to ban the use of children as camel jockeys.

More than 100 children aged 4 to 15, mostly of Sudanese origin, were used as jockeys in camel races. Guardians and handlers, who often claimed to be parents, brought the children into the country and supervised their training. The boys lived in harsh conditions. They did not receive proper education, medical care, and supervision. A visit to a camel jockey compound found young, sickly, overworked and malnourished Sudanese boys. Contact between the boys and their guardian was infrequent, if at all. The boys subsisted on a substandard diet. They were made to work very long hours and trained on a daily basis to become riders.

The country also was a destination for women and girls who traveled to the country to work as domestic servants. Some reported being forced into domestic servitude and sexual exploitation.

In January, the Cabinet established the Trafficking in Persons (TIP) Implementation Committee, which was charged with implementing specific anti-trafficking reforms. It sponsored training for judges and their deputies on prosecution of trafficking-related offenses. It monitored immigration patterns for evidence of trafficking. The Government provided assistance to domestics who have suffered from abuse and provided shelter for them in deportation centers. It ran a 24-hour hotline to advise women and children in abusive situations.

Persons With Disabilities.—Law No. 2, enacted in March, requires the allocation of resources for persons with disabilities and prohibits the discrimination against persons with disabilities. Among some of the rights and provisions mandated for persons with disabilities are: Rehabilitation, education, transportation, medical and social care, support services, access to public facilities, and employment. In the case of the latter, the law requires that 2 percent of all jobs in government agencies and public institutions be set aside for persons with disabilities. Also, private sector businesses employing a minimum of 25 persons were also required to hire persons with disabilities. Further, those caught violating these employment provisions were subject to fines. The Supreme Council for Family Affairs is charged with ensuring compliance with the rights and provisions mandated under Law No. 2.

National/Racial/Ethnic Minorities.—The Government discriminated based on nationality in the areas of employment, education, housing, and health services. Noncitizens did not receive the same benefits as citizens. They were required to pay for health care, electricity, water, and education (services that were provided free of charge to citizens). Noncitizens generally cannot own property; however, Law 17, enacted in June, regulates the right of usufruct and allows for ownership of property in only two designated areas. The largest nationality groups among noncitizens were Indian, Pakistani, and Iranian nationals, and Arab nationals of other countries. In the private sector, many citizens of Iranian origin occupied some of the highest positions.

Section 6. Worker Rights

a. The Right of Association.—During the year, the law prohibited all workers from forming labor unions. However, the law provided for the establishment of joint consultative committees composed of representatives of the employer and workers. The committees did not discuss wages but considered issues such as organization, productivity, conditions of employment, training of workers, and safety measures and their implementation. A new labor law, to be enacted in January 2005, provides a limited right of association, but only for citizens. Those working in the government sector are prohibited from joining unions. Further, the new law permits only a single national trade union structure.

The International Labor Organization (ILO) at a Gulf Cooperation Council Labor Ministers' meeting in Doha in November 2003 signed a protocol with GCC countries on cooperation to assist with upgrading training facilities and developing methods to address employment problems. Since the signing of the protocol, the GCC countries have been working together to adopt ILO standards.

b. The Right to Organize and Bargain Collectively.—Collective bargaining was prohibited. Employers set wages unilaterally without government involvement. Local courts handled disputes between workers and employers; however, foreign workers avoided drawing attention to problems with their employers for fear of repatriation.

Although the law does not provide workers with the right to strike, some workers staged strikes as a means of seeking redress and improvement in their work situation from employers. In September, approximately 200 Asian workers of a construction company staged a 4-day strike to protest poor conditions in their labor camps. The dispute was resolved following an agreement reached between management and workers in the presence of embassy officials and Labor Department officials.

According to source country embassies and some migrant workers, the Labor Department was widely perceived to be objective within a narrow mandate when dealing with the nonpayment of wages and poor living conditions. The Labor Department claimed that it resolved the vast majority of worker complaints amicably, with a very small percentage referred to the courts for judgment. In the absence of labor unions, the Department did not consider wage levels.

In the new labor law, workers are granted the right to collective bargaining and signing joint agreements; however, that right is circumscribed by the Government's control over the rules and procedures of the bargaining and agreement processes. The new law also grants workers the right to strike; however, the conditions imposed by the statute not only restrict that right in effect, but also make the likelihood of striking extremely unlikely. Further, government employees, domestic serv-

ants, and those in the public utility, health, and security services are prohibited from striking.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Penalty Law, enacted in June, prohibits forced or compulsory labor, including by children; however, foreign workers in some cases were employed under circumstances that constituted forced labor. More than three-quarters of the workforce were foreign workers who, dependent on a single employer for residency rights, were vulnerable to abuse. For example, employers must give consent before exit permits are issued to any foreign employee seeking to leave the country. Some employers temporarily withheld this consent to force foreign employees to work for longer periods than they wished. Unskilled workers and domestic servants were particularly vulnerable to nonpayment or late payment of wages.

d. Prohibition of Child Labor and Minimum Age for Employment.—During the year, the law in effect provided that minors between the ages of 15 and 18 could be employed with parental or guardian permission, and some children worked in small, family-owned businesses; however, some child labor occurred. Minors may not work more than 6 hours a day or more than 36 hours a week. Employers must provide the Labor Department with the names and occupations of their minor employees and obtain permission from the Ministry of Education to hire a minor. The Department may prohibit the employment of minors in jobs that are judged dangerous to the health, safety, or morals of minors. Very young children, usually of African background, were employed as jockeys in camel races (*see* Section 5, Trafficking).

The law prohibits forced and compulsory labor by children, and the Government generally enforced this prohibition only with respect to citizen children (*see* Section 6.c.). The new labor law raised the minimum age for employment to 16 years.

e. Acceptable Conditions of Work.—Although the law provides the Emir with authority to set one, there was no minimum wage. The average wage of non-citizen workers did not provide a decent standard of living for a worker and family. According to Planning Council statistics, the average monthly wage in 2001 was $795 (2,902 riyals). The law prescribes a 48-hour workweek with a 24-hour rest period, although most government offices followed a 36-hour workweek. Employees who worked more than 48-hours per week, or 36-hours per week during the holy month of Ramadan, were entitled to overtime pay. Government offices and major private sector companies adhered to this law; however, it was not observed with respect to unskilled laborers and domestic and personal employees, the majority of whom were foreigners. Many such workers frequently worked 7 days per week, and more than 12 hours per day with few or no holidays, no overtime pay, and no effective way to redress grievances.

The Government has enacted regulations regarding worker safety, but enforcement, which is the responsibilities of the Ministry of Energy and Industry, the Ministry of Health, and the Labor Department, was lax due to insufficient training and lack of personnel. Diplomatic representatives conducted visits to four labor camps and found the majority of unskilled foreign laborers living in cramped, dirty, and hazardous conditions, often without running water or electricity. A visit to a camp adjacent to a paper factory where five workers had died after exposure to toxic gases found the workers, 4 days later, still being exposed to the same poisonous gases.

The Department of Public Safety oversaw safety training and conditions, and the state-run petroleum company had its own safety standards and procedures. The regulations listed partial and permanent disabilities for which compensation may be awarded, some connected with handling chemicals and petroleum products or construction injuries. The law does not specifically set rates of payment and compensation. The Government provided free medical treatment to workers who suffered work-related sickness or injuries. The law does not provide workers specifically the right to remove themselves from hazardous work conditions, and workers often hesitated to do so for fear of dismissal. The law provides any worker with the right to seek legal relief from onerous work conditions; however, domestic servants generally did not pursue such relief in order to avoid repatriation.

Foreign workers may enter the country on a visitor's visa, but a sponsor is needed to convert a visitor's visa to a work visa, and the worker must have a sponsor's permission to depart the country. The Government also fined individual sponsors and employers who severely violated residence and sponsorship laws by prohibiting them from importing labor until they rectified the situation. During the year, the Government announced a labor amnesty as in incentive for sponsors, employers, and laborers to rectify their legal status dispute, without paying fines. Employers mistreated some foreign domestic servants. Such mistreatment generally involved the non-

payment or late payment of wages; in some cases, it involved rape and physical abuse.

SAUDI ARABIA

Saudi Arabia is a monarchy without elected representative institutions or political parties. King Fahd bin Abd Al-Aziz Al Saud suffered a stroke in 1995, and Crown Prince Abdullah has been the de facto ruler since that time. As custodian of Islam's two holiest sites in Mecca and Medina, the Government bases its legitimacy on governance according to Islamic law (Shari'a). The Basic Law sets out the system of government, rights of citizens, powers, and duties of the State, and provides that the Koran and the Traditions (Sunna) of the Prophet Muhammad are the country's Constitution. Neither the Government nor Saudi society, in general, accepts the concept of separation of religion and state. The King serves as Prime Minister and appoints the crown prince. The Crown Prince is First Deputy Prime Minister and heir apparent. The appointed Majlis al-Shura debates, rejects, and amends government-proposed legislation, questions some government officials, and has the power to initiate legislation. The Basic Law provides for an independent judiciary; however, some members of the royal family are not required to appear before the courts, and they and their associates have influenced judges.

The Government maintains effective control of the various security forces. Police and border forces under the Ministry of Interior (MOI) are responsible for internal security. The MOI also controls the Mabahith, or internal security force, and its own special forces. The Committee to Promote Virtue and Prevent Vice (Mutawwa'in), or religious police, is a semiautonomous agency that enforces adherence to strictly conservative Islamic norms by monitoring public behavior. The Crown Prince controls the National Guard. The Second Deputy Prime Minister and Minister of Defense and Aviation is responsible for all of the Ministry of Defense's armed forces. The Minister of Interior exercised control over the Kingdom's internal security forces. Members of the security forces committed human rights abuses.

The population was approximately 26.7 million, of which more than 7 million were foreign citizens. Oil revenue was the basis of the transformation of the country from a Bedouin, nomadic, and rural society to a predominantly settled and urban one. Oil and gas revenues accounted for approximately 40 percent of the gross domestic product (GDP) and 79 percent of government income. Agriculture accounted for approximately 5 percent of GDP. Government spending accounted for 32 percent of GDP. Approximately 40 percent of the economy was nominally private. The Government continued to implement its Saudiization policy, which requires employers to increase the number of citizens in the work force.

The Government's human rights record remained poor overall with continuing serious problems, despite some progress. Citizens did not have the right to change their government. Security forces continued to abuse detainees and prisoners, arbitrarily arrest, and hold persons in incommunicado detention. There were cases in which Mutawwa'in continued to intimidate, abuse, and detain citizens and foreigners. Most trials were closed, and defendants usually appeared before judges without legal counsel. Security forces arrested and detained reformers, some of whom continued at year's end to seek an open trial. The Government reportedly infringed on individuals' privacy rights. The Government continued to restrict freedoms of speech and press, assembly, association, religion, and movement. There was widespread public perception that corruption by some members of the royal family and in the executive branch of the Government was a serious problem. There was little government transparency, especially notable in official budgets, and with no laws providing the right to access government information. The Government continued to discriminate against women, ethnic and religious minorities and to impose strict limitations on worker rights.

On November 23, the Government began registering non-military, male citizens and candidates for the country's first nationwide municipal elections. Municipal elections for 4-year terms to half of the seats on 178 local councils are slated to take place between February and April 2005. Women were not permitted to vote or run for office. In June, the King Abd Al-Aziz Center for National Dialogue held its third conference in a series intended "to build and enhance a culture of dialogue in Saudi society." The government-sponsored conference focused on the issue of "women's rights and obligations and the educational correlation." The Fourth National Dialogue in December focused on "Youth Issues: Realities and Aspirations" and recommended developing the curricula to cultivate among Saudi pupils "the values of

moderation, the middle path, and respect for others—and to make them accustomed to conducting discussion and debate."

The newly formed government-patronized National Society for Human Rights (NSHR), the first human rights group which the Government has formally permitted to operate in the country, began to address some human rights violations, such as prison conditions. In October, the Government amended the naturalization law to permit some long-term residents to apply for citizenship. This step was particularly significant for the thousands of Bidoons (descendants of stateless nomads) residing in the country.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings; however, the Government executed persons for criminal offenses after closed trials, making it impossible to assess whether legal protections were applied (*see* Section 1.e.). The country's highest court, the Supreme Judicial Council, is responsible for reviewing cases involving stoning, amputation, or death, and sentences can only be enforced pursuant to a Royal Decree issued by the King.

During the year, terrorists killed more than 30 foreigners and citizens, including 5 employees of a foreign consulate in Jeddah. Their attacks consisted of kidnappings, targeted shootings, bombings, and beheadings.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Criminal Procedure section of the Basic law prohibits torture and Shari'a (Islamic law) prohibits any judge from accepting a confession obtained under duress; however, authorities reportedly at times abused detainees, both citizens and foreigners. Ministry of Interior officials were responsible for most incidents of abuse of prisoners, including beatings, whippings, and sleep deprivation. In addition, there were allegations of beatings with sticks and suspension from bars by handcuffs. There were allegations that these practices were used to force confessions from prisoners.

Canadian and British prisoners released in 2003 reported that they had been tortured during their detention; however, the Government denied these claims.

Maintaining its reservation to Article 20 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Government does not recognize the jurisdiction of the Committee Against Torture to investigate allegations of systematic torture.

During the year, the Mutawwa'in harassed, abused, and detained citizens and foreigners of both sexes. They also brought citizens to police stations for detention. These incidents were most common in the central region, including the capital, Riyadh, and less frequent in the eastern and western regions of the country. Mutawwa'in abuses continued during the year, despite an initial decrease following the May 2003 terrorist attacks.

The Government punished criminals according to its interpretation of Shari'a. Punishments included imprisonment, flogging, amputation, and execution by beheading. At year's end, the press reported approximately 30 executions, including one woman. Executions were for killings, narcotics-related offenses, rape, and armed robbery. The authorities punished repeated thievery and other repeated offenses by amputation of the right hand and left foot. Persons convicted of less serious offenses, such as alcohol-related offenses or being alone in the company of an unrelated person of the opposite sex, sometimes were punished by caning. The Government also punished convicted persons by flogging. According to press reports, lashes were generally administered with a thin reed by a man who must hold a book under his arm to prevent him from lifting the arm too high. The strokes, delivered through a thin shirt, are not supposed to leave permanent damage, but to leave painful welts that bleed and bruise.

At year's end, there were no reports that the flogging sentences imposed on the demonstrators arrested in October 2003 had been commuted.

Prison and jail conditions varied. Prisons reportedly generally met internationally accepted standards and provided air conditioned cells, good nutrition, regular exercise, and careful patrolling by prison guards. The Government permitted the NSHR to visit some prisons or jails during the year. In December, the NSHR released a report on conditions in jails, detention centers, and police station detention facilities. According to the press, they found that "in general conditions were good." However, there was variation. The report cited below-acceptable standards in hygiene, food, medical, and social services; prolonged detention of expatriates because their spon-

sors refused to provide travel tickets; and prolonged detention of prisoners in poor health. The report also noted that many jails remained overcrowded because prisoners remained in jail long after they had completed their sentences. Authorities occasionally allowed family members access to detainees, but in some cases only after a significant period of time. The authorities restricted access of foreign visitors to the prisons, 80 percent of whose inmates were non Saudis, according to Human Rights Watch. The Government maintained separate detention facilities for men, women, and juveniles.

There are several Committees for Collection of Donations for Impoverished Prisoners throughout the country. The Committees raised funds in order to pay for fines resulting from traffic accidents and civil cases since prisoners are required to remain in custody until the fines are paid, regardless of length of sentence.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention and limits the period of arrest to 5 days without charges being filed; however, in practice, persons were held weeks or months and sometimes longer, and the law gives the Minister of Interior broad powers to detain persons indefinitely.

The authorities at times arrested and detained persons without following explicit legal guidelines. The Mutawwa'in intimidated and brought to police stations persons whom they accused of committing "crimes of vice" based on their own religious interpretations.

The regulations also provide for bail for less serious crimes, although authorities at times released detainees on the recognizance of a patron or sponsoring employer without the payment of bail. If they were not released, authorities typically detained accused persons for an average of 2 months before sending the case to trial or, in the case of some foreigners, summarily deporting them. There were no established procedures providing detainees the right to inform their family of their arrest.

On April 19, the Government re-arrested Islamist dissident Shaykh Sa'eed bin Za'er for remarks made on Al-Jazeera about terrorism in the country. Za'er had been released in March 2003 after more than 8 years in prison for publicly condemning a fatwa permitting peace with Israel. At year's end, he remained in detention. A dual Jordanian-American citizen, Ahmed Abu Ali, has been held in detention since his arrest in June 2003.

The Government continued its long-standing tradition of releasing prisoners in honor of Ramadan.

The Mutawwa'in have the authority to detain persons for no more than 24 hours for violations of the strict standards of proper dress and behavior; however, at times, they exceeded this limit before delivering detainees to the police (*see* Section 1.f.). Procedures required a police officer to accompany the Mutawwa'in at the time of an arrest. Mutawwa'in generally complied with this requirement, however, there were cases during the year in which Mutawwa'in detained persons without the presence of a police officer. During the year, in the more conservative Riyadh district, reports continued of Mutawwa'in accosting, abusing, arresting, and detaining persons alleged to have violated dress and behavior standards

The Mutawwa'in detained young men for offenses that included eating in restaurants with young women, making lewd remarks to women in the shopping malls, or walking in groups through family-only sections of shopping centers. Mutawwa'in detained women of many nationalities for actions such as riding in a taxi with a man who was not their relative, appearing with their heads uncovered in shopping malls, and eating in restaurants with males who were not their relatives. Many such prisoners were held for days, sometimes weeks, without officials notifying their families or, in the case of foreigners, their embassies.

There were cases in which the Government arrested and detained Christians, at times for holding services and at times apparently arbitrarily (*see* Section 2.c.).

Political detainees who are arrested by the General Directorate of Investigation (GDI), the Ministry of Interior's security service (Mabahith), have been held incommunicado in special prisons during the initial phase of an investigation, which may last weeks or months under the Ministry's broad legal authority. The GDI restricted access of families or lawyers to detainees.

The authorities may detain without charge persons who publicly criticize the Government, or may charge them with attempting to destabilize the Government (*see* Sections 2.a. and 3). Following the demonstrations in December in this year and in October 2003 in a number of cities, authorities arrested and detained political protesters for weeks prior to charging them (*see* Sections 2.a. and 3).

The Government continued to commit abuses against members of the Shi'a Muslim minority. Government security forces reportedly arrested Shi'a based on scant suspicion, held them in custody for lengthy periods, and then released them without explanation.

Citizens can report abuses by security forces at any police station; however, there is no data on how complaints were handled.

In March, the Government arrested 13 leading advocates for democratic reform in the Kingdom on charges that they were involved in activities "that do not serve the unity of the country or the cohesion of a society based on Islamic law." Most were released after reportedly signing statements promising not to speak publicly or to agitate for reform; however, three remained imprisoned at year's end (*see* Sections 1.e. and 2.d.).

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the Government generally respected this provision; however, some members of the royal family generally were not required to appear before the courts, and their associates have influenced judges. The Supreme Judicial Council, whose members are appointed by the King, appoints, transfers, and removes judges. The Ministry of Justice disciplines judges.

The law allows for a public trial; however in practice, many trials were not public.

The legal system is based on Shari'a. Shari'a courts exercise jurisdiction over common criminal cases and civil suits regarding marriage, divorce, child custody, and inheritance. Such jurisdiction extends to non Muslims for crimes committed in the country. Cases involving relatively small penalties were tried in Shari'a summary courts. More serious crimes are adjudicated in Shari'a courts of common pleas. Appeals from Shari'a courts are made to the courts of appeal.

Other civil proceedings, including those involving claims against the Government and enforcement of foreign judgments, were held before specialized administrative tribunals, such as the Commission for the Settlement of Labor Disputes and the Board of Grievances.

The Government permitted Shi'a Muslims to use their own legal tradition to adjudicate cases involving domestic issues, inheritance, and Islamic endowments. However, there were only two judges, which was insufficient to serve the large Shi'a population in the Eastern Province. There was no comparable right for non-Muslims or foreigners, whose cases were handled in regular Shari'a courts.

The military justice system has jurisdiction over uniformed personnel and civil servants who are charged with violations of military regulations. The Minister of Defense and Aviation and the King review the decisions of courts-martial.

The Supreme Judicial Council may not reverse decisions made by courts of appeal. However, the Council may review lower court decisions and refer them back to the lower court for reconsideration

The "Ulema," the Council of Senior Religious Scholars is an autonomous body of 20 senior religious jurists, including the Minister of Justice. It interprets Shari'a establishing the legal principles to guide lower-court judges. The Criminal Procedure Law provides persons under investigation the right to a lawyer and permits lawyers to present arguments in criminal courts. The Law also provides the right to inform convicts of their right to appeal rulings.

A woman's testimony does not carry the same weight as that of a man. In a Shari'a court, the testimony of one man equals that of two women. Under the Hanbali interpretation of Shari'a law followed in the Kingdom, judges may discount the testimony of persons who are not practicing Muslims or who do not adhere to the correct doctrine. Legal sources reported that testimony by Shi'a is often ignored in courts of law or is deemed to have less weight than testimony by Sunnis.

Female parties to court proceedings such as divorce and family law cases generally must deputize male relatives to speak on their behalf. In the absence of two witnesses, or four witnesses in the case of adultery, confessions before a judge almost always were required for criminal conviction—a situation that has led prosecuting authorities to coerce confessions from suspects by threats and abuse (*see* Section 1.c.).

Laws and regulations state that defendants should be treated equally; however, sentencing was not uniform and crimes against Muslims received harsher penalties than those against non Muslims. In the case of wrongful death, the amount of indemnity or "blood money" (compensation) awarded to relatives varied with the nationality, religion, age, and sex of the victim. A sentence may be changed at any stage of review, except for punishments stipulated by the Koran.

Islamic law considers Hindus to be polytheists; the law was used as a justification for greater discrimination in calculating accidental death or injury compensation. According to the country's Hanbali interpretation of Shari'a, once fault is determined by a court, a Muslim male receives 100 percent of the amount of compensation determined, a male Jew or Christian received 50 percent, and all others (including Hindus) received 1/16 of the amount a male Muslim receives. Women receive 50 percent of what males receive in each of these categories.

Provincial governors (almost all of whom are members of the royal family) have the authority to exercise leniency and reduce a judge's sentence. In general, some members of the royal family and other powerful families were not subject to the same rule of law as ordinary citizens.

The King and his advisors reviewed cases involving capital punishment. The King has the authority to commute death sentences and grant pardons, except for capital crimes committed against individuals. In such cases, he may request the victim's next of kin to pardon the killer—usually in return for compensation from the family or the King.

The Government did not provide information regarding political prisoners or respond to inquiries about them. The Government conducted closed trials for persons who may have been political prisoners and in other cases has detained persons incommunicado for long periods while under investigation.

In March, the Government arrested 13 individuals who had been leading advocates for democratic reform in the Kingdom. Most were released after reportedly signing statements promising not to agitate for reform; however, three who refused to sign such statements were imprisoned and later put on trial. The Government formally charged the individuals, most notably with charges of organizing petitions calling for Constitutional reform and speaking to journalists. The courts held several hearings concerning the cases, which journalists and other observers were permitted to attend, and the press reported on these proceedings during the year. Despite these hearings, at year's end, it was still unclear whether the court will accede to the defendants' demands that the trial be public (*see* Sections 1.d. and 2.d.).

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Basic Law guarantees the inviolability of homes and the privacy of correspondence. The Criminal Procedure Law requires authorities to obtain a warrant prior to searching a residence, or a court order prior to perusing personal correspondence or documents. The Government generally respected this inviolability; however, there were cases in which the Government infringed on these rights. Royal decrees include provisions calling for the Government to defend the home from unlawful intrusions, while laws and regulations prohibit officials from intercepting mail and electronic communications except when necessary during criminal investigations.

The police generally must demonstrate reasonable cause and obtain permission from the provincial governor before searching a private home.

Customs officials routinely opened mail and shipments to search for contraband, including material deemed pornographic and non-Sunni Muslim religious material. Customs officials confiscated or censored materials considered offensive, including Christian Bibles and religious videotapes (*see* Section 2.c.). The authorities also opened mail and used informants and wiretaps in internal security and criminal matters. Security forces used wiretaps against foreigners suspected of alcohol-related offenses. Informants and an informal system of ward bosses in some districts reported "seditious ideas," anti-government activity, or behavior contrary to Islam in their neighborhoods to the Ministry of the Interior.

The Government enforced most social and Islamic religious norms, the Government's interpretations of which are matters of law (*see* Section 5). Women may not marry noncitizens without government permission; men must obtain government permission to marry noncitizen women outside the six states of the Gulf Cooperation Council. In accordance with Shari'a, women are prohibited from marrying non-Muslims; men may marry Christians and Jews, as well as Muslims. Tradition and culture, not law, restrict marriages between Sunni and Shi'a citizens, and the Government does not refuse marriage licenses between Sunni and Shi'a couples.

The Government at times imposed restrictions on the right of certain Government employees to marry foreigners. The Government subjects top civil servants and security officials to extensive questioning when applying to marry foreigners. The Government tends to be more lenient in approving marriages to foreigners by the elderly and disabled. The marital restrictions also applied to citizens studying overseas on government scholarships. Violators risked disciplinary action; however, this policy was rarely violated and there were no reports of sanctions being imposed.

Mutawwa'in practices and incidents of abuse varied widely in different regions of the country, but they were most numerous in the central Nejd region. In certain areas, both the Mutawwa'in and religious vigilantes acting on their own harassed, abused, arrested, and detained citizens and foreigners (*see* Section 1.d.).

Mutawwa'in enforcement of strict standards of social behavior included closing commercial establishments during the five daily prayer observances, insisting upon compliance with strict norms of public dress, and dispersing gatherings of women in public places designated for men, as well as preventing men from entering public places designated for families. Mutawwa'in frequently reproached citizen and for-

eign women for failure to observe strict dress codes and arrested men and women found together who were not married or closely related.

Incidents with Mutawwa'in increased during Ramadan because many felt they had added license to assert their authority during the holy month.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Basic Law states that the media's role is to educate the masses and boost national unity and that it can be banned if it gives rise to mischief and discord, compromises the security of the State and its public image, or offends man's dignity and rights. The Government continued to restrict freedom of speech and press, although there was regular discussion of social, economic, and political issues previously considered taboo.

In March, journalist Faris Bin Hozam al-Harbi was banned from writing or working for any newspaper. On November 6, the lead attorney for the arrested reformers, Abdul Rahman Al-Lahem, was arrested. Al-Lahem had signed an undertaking not to speak to the press about the case, but continued to give interviews, telling one journalist that he did not accept the Government's attempt to silence him.

No charges were entered against Al-Lahem, and he remained imprisoned and without access to his family or lawyers at year's end. In December, journalists for national newspapers the Saudi Gazette and Al-Madina were arrested and later released at the trial of the reformers arrested in March.

In 2003, the Government sanctioned several journalists for articles and commentaries critical of the religious authorities and conservative Muslim theology, particularly after the May 2003 terrorist attacks.

Newspapers reported on previously taboo subjects including political, economic, and educational reform, women's rights, rights of foreigners, corruption, religion, and domestic problems such as abuse of women, servants, and children (*see* Section 5). Newspapers carried stories about elections in neighboring Gulf countries and reported on reform discussions within the country, including extensive coverage of the upcoming municipal elections and voter and candidate registration.

The print media were censored and privately owned, but publicly subsidized, and some were financially backed by or had close ties to members of the royal family. Journalists also practiced self-censorship, refraining from direct criticism of government officials. A media policy statement and a national security law prohibit the dissemination of criticism of the royal family and the Government. The media policy statement urged journalists to uphold Islam, oppose atheism, promote Arab interests, and preserve cultural heritage. The Ministry of Information appoints, and may remove, all editors-in-chief. The Government also provided guidelines to newspapers regarding controversial issues. The government-owned Saudi Press Agency (SPA) expressed official government views.

In February 2003, the Government granted a charter to a professional journalists' association. The association began registering members, opening membership to all journalists in the country or abroad who have worked in the profession for 3 years or longer. Both men and women were members, and noncitizen journalists working in the country were eligible to join as non-voting members. On June 7, the association elected its first nine-member board of directors, which included two female journalists.

The authorities continued to ban government employees from criticizing the Government. On September 13, the Council of Ministers announced that the Government planned to enforce existing laws based on Article 12 of the Basic Law that provides the State with the authority to "prevent anything that may lead to disunity, sedition, and separation." Accordingly, all public employees were enjoined from "participating, directly or indirectly, in the preparation of any document, speech or petition, engaging in dialogue with local and foreign media, or participating in any meetings intended to oppose the State's policies."

Newspapers routinely investigated and published stories on crime and terrorism without prior government authorization. Two London-based Arabic dailies, Al-Sharq Al-Awsat and Al Hayat, were owned by members of the royal family and were distributed widely and read in the country. Both newspapers practiced some degree of self-censorship to comply with government guidelines on sensitive issues.

The Government owned and operated most domestic television and radio companies. Government censors removed any reference to politics, religions other than Islam, pork or pigs, alcohol, and sex from foreign programs and songs. There were several million satellite-receiving dishes in the country, which provided citizens with foreign television programming.

During the year, the Majlis al-Shura continued partial, delayed television coverage of its proceedings and allowed journalists to attend sessions. There was frequent coverage in the press of Majlis proceedings and votes. The Ministry of Foreign

Affairs held regular press conferences for journalists. During the year, the press carried timely and accurate coverage of terrorist attacks and the subsequent government campaign against terrorism in the country.

Access by citizens to outside sources of information, such as Arabic and Western satellite television channels and the Internet, was widespread.

On January 12, the Government introduced a new locally based satellite news channel, "Al-Akhbaria," which included six female newscasters on the staff.

The Government permitted a large number of international media professionals and foreign journalists and photographers, both male and female, to travel freely and to conduct interviews.

The Government banned all books, magazines, and other materials that it considered sexual or pornographic in nature. The Ministry of Information compiled and updated a list of publications that were prohibited from being sold in the country. The Government censored most forms of public artistic expression and prohibited cinemas and public musical or theatrical performances, except those that were considered folkloric.

Access to the Internet was available through local government-monitored servers. There were as many as one million Internet subscribers. Some citizens attempted to circumvent this control by accessing the Internet through servers in other countries. The Government attempted to block Web sites that it deemed sexual, pornographic, politically offensive, or "un-Islamic"; however, many citizens were able to circumvent these restrictions.

A 2003 ban was continued, forbidding a university professor from teaching and traveling. The ban was imposed because he had criticized the Government's discriminatory policies against the Shi'a.

The Government restricted academic freedom. The Government prohibited the study of evolution, Freud, Marx, Western music, and Western philosophy. Professors reportedly believed that informers monitored their classroom comments and reported them to government and religious authorities.

b. Freedom of Peaceful Assembly and Association.—The Basic Law does not address freedom of association or assembly, and the Government strictly limited it in practice and prohibited public demonstrations as a means of political expression.

On December 16, police arrested 21 persons for taking part in an anti-government protest in Jeddah. The protest was called by Saad al-Faqih, a London-based Saudi, who was designated by the United States as a supporter of international terrorism. At year's end, the detainees were awaiting trial (*see* Sections 1.d. and 3).

In October 2003, several hundred persons demonstrated in Riyadh and other cities in a protest organized by the London-based Movement for Islamic Reform (MIRA). Police broke up the protest and arrested most of the demonstrators (*see* Sections 1.d. and 3). During the February Shi'a Ashura observance in Qatif, the Government permitted worshippers to gather over the course of a ten-day period. The celebration occurred without reports of government harassment.

Public meetings were segregated by sex. Unless sponsored by diplomatic missions or approved by the appropriate governor, foreign residents who seek to hold unsegregated meetings risked arrest and deportation. The authorities monitored any large gatherings of persons, particularly women. The Mutawwa'in dispersed groups of women found in public places, such as restaurants. Government policy permits women to attend cultural and social events if accompanied by a father, brother, adult son, or husband; however, the policy was not consistently enforced.

The Government prohibited the establishment of political parties or any type of opposition group (*see* Section 3). However, until the arrest of reformers in March, groups of reform supporters and participants in the annual national dialogues submitted petitions to the Government on reform, women's rights, religious moderation, and public participation. In February 2003, the Government licensed a journalists' association, approved the establishment of a human rights organization, and announced plans to form a bar association (*see* Section 4). A large number of humanitarian organizations and tribal and professional societies exist licensed by the Government, such as the Saudi Chemists Society and the Saudi Pharmacists Society.

c. Freedom of Religion.—The Government does not provide legal protection for freedom of religion and such protection did not exist in practice. Freedom of religion did not exist. Islam is the official religion, and the law provides that all citizens must be Muslims.

The Government prohibited the public practice of non-Muslim religions. In general, non-Muslims are able to worship privately, but must exercise great discretion to avoid attracting attention. Conversion by a Muslim to another religion was considered apostasy. Apostasy is a crime under Shari'a and, according to the Government's interpretation, is punishable by death. On October 31, a citizen was arrested

in Hofuf and jailed. International NGO and local media reports claimed that he had converted to Christianity. No further information on him or his case was available at year's end.

The Shi'a Muslim minority (approximately 2 million of approximately 26.7 million citizens) lived mostly in the Eastern Province, although a significant number also resided in Medina in the Western Province. Its members were subjected to officially sanctioned political, social, and economic discrimination (*see* Section 5).

The Government permitted the celebration of the Shi'a holiday of Ashura in the eastern province city of Qatif. The police monitored the celebrations. No other public Ashura celebrations were permitted in the country, and many Shi'a traveled to Qatif or to Bahrain to participate in Ashura celebrations. The Government continued to enforce other restrictions on the Shi'a community, such as banning Shi'a books.

The Government issued permits to construct Shia mosques, and a new mosque was constructed in Qatif. The Shi'a have declined government offers to build state-supported mosques because the Government would prohibit the incorporation and display of Shi'a motifs in any such mosques.

Magic was widely believed in and sometimes practiced; however, under the Government's interpretation of Shari'a, the practice of magic was regarded as the worst form of polytheism, an offense for which no repentance was accepted, and which was punishable by death. There were an unknown number of detainees held in prison on the charge of "sorcery" or the practice of "black magic" or "witchcraft." The press reported several cases in which police arrested persons accused of sorcery, including a case in September in which three African women were arrested in Jeddah. There were reports of Shi'a Ismailis (Seveners) in Najran charged with practicing magic; however, the Shi'a Ismailis maintained that their practice adheres to the Seveners interpretation of Islam. There was no information available on prison time or punishment.

Significant numbers of Sufis in the Western Province engaged in technically illegal practices, such as celebrating the Mawlid, or Prophet's birthday, without government interference. The practice of other schools of Sunni Islam was discouraged, and adherents of the Shi'a branch of Islam faced institutionalized discrimination, including restrictions on religious practice and on the building of mosques and community centers.

The Government prohibited public non-Muslim religious activities. Non-Muslim worshippers risked arrest, lashing, deportation, and torture for engaging in overt religious activity that attracted official attention. The Government did not provide explicit guidelines, such as the number of persons permitted to attend and acceptable locations, for determining what constitutes private worship, which made distinctions between public and private worship unclear. Such lack of clarity, as well as instances of arbitrary enforcement by the authorities, forced most non-Muslims to worship in such a manner as to avoid discovery by the Government or others. Authorities deported those detained for non-Muslim worship, almost always after lengthy periods of arrest.

There were reports that Christians were detained for practicing their religion. During the year, there were scattered raids, arrests, and detentions of Christians throughout the country, although fewer than in the past. In February, the Government deported a resident Christian after he provided an Arabic Bible to a citizen. In November, the Government deported an Indian Christian arrested in April. There were credible reports that Mutawwa'in arrested him for religious reasons after a dispute with his employer. According to other reports, the Mutawwa'in beat him on the day of the arrest and confiscated his personal property, including two Bibles, compact disks, a personal computer, and religious videos.

The Government did not officially permit non-Muslim clergy to enter the country for the purpose of conducting religious services, although some came under other auspices. Such restrictions made it very difficult for most non-Muslims to maintain contact with clergymen and attend services. Catholics and Orthodox Christians, who require a priest on a regular basis to receive the sacraments required by their faith, particularly were affected.

Proselytizing by non-Muslims, including the distribution of non Muslim religious materials such as Bibles, was illegal. Muslims or non-Muslims wearing religious symbols of any kind in public risked confrontation with the Mutawwa'in.

Under the Hanbali interpretation of Shari'a law, judges may discount the testimony of persons who are not practicing Muslims or who do not adhere to the correct doctrine.

Islamic religious education was mandatory in public schools at all levels. All students received religious instruction, which generally was limited to that of the Hanbali school of Islam.

In accordance with the religious establishment's interpretation of Shari'a, women were prohibited from marrying non-Muslims, but men were permitted to marry Christians and Jews, as well as Muslims.

The Government required noncitizens to carry Iqamas, or legal resident identity cards, which contained a religious designation for "Muslim" or "non-Muslim." There were reports that individual Mutawwa'in pressured Saudi sponsors not to renew Iqamas, which had been issued for employment, of individuals for religious reasons.

During the holiday season, the press reported that shopkeepers in Riyadh sold Christmas cards under the counter. During the year, the Committee prohibited the sale of cards and flowers for exchange on Valentine's Day

In March, the press reported that a schoolteacher on trial for apostasy was convicted of blasphemy and sentenced to three years in jail and 300 lashes. The teacher was banned from teaching and writing in the press. The court dropped the original charge of apostasy.

There are no public places of worship for non-Muslims in the country. While significant numbers of Christians reside in the country, there are very few Jews. There exist no synagogues or churches in the country, and, while there have been no specific reports of physical violence against, or harassment of Jewish people, there have been numerous reports of violence against and harassment of Christians.

There were frequent instances in which mosque preachers, whose salaries are paid by the Government, used strongly anti-Jewish language in their sermons. Although this language declined in frequency since the May 2003 attacks in Riyadh, there continued to be instances in which mosque speakers prayed for the death of Jews, including from the Grand Mosque in Mecca and the Prophet's Mosque in Medina.

Anti-Semitic sentiments were present in the print and electronic media. For example, in an article in the May 1 issue of "The Muslim Soldier" published by the Religious Affairs Department of the Saudi Armed Forces, the author wrote that the fabricated Torah, Talmud, and Protocols of the Elders of Zion command the destruction of all non-Jews in order to achieve their goal of world domination. The local press rarely printed articles or commentaries disparaging other religions.

NGOs have reported on intolerance in the education system and, in particular on the presence of anti-Semitic content in some school textbooks. Authorities have taken measures to address these concerns, including in 2003 the wholesale revision of textbooks to remove content disparaging religions other than Islam.

The official tourism website stated that Jews were banned from entering the country; however, it was not enforced in practice. On March 1, the Government removed this statement from the site replacing it with a statement regretting "any inconvenience this may have caused."

December 14 was "security day" in all schools in Riyadh to "educate against extremism and terrorism."

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Citizen men have the freedom to travel within the country and abroad; however, the Government restricted these rights for women based on its interpretation of Islamic Law. All women in the country were prohibited from driving and were dependent upon males for transportation. Likewise, they must obtain written permission from a male relative or guardian before the authorities would allow them to travel abroad (*see* Section 5). The requirement to obtain permission from a male relative or guardian applied also to foreign women married to citizens or to the minor and single adult daughters of Saudi fathers. Since 2001, women have been able to obtain their own identity cards; however, the Government required that they obtain permission to receive a card from a male relative or guardian (*see* Section 5).

The restrictions on travel also applied to foreign citizen children of citizen fathers. In cases where there were custody disputes between foreign citizen women and their citizen husbands, the husband was able to prevent the travel of the children out of the country. These restrictions on travel can continue even after female children reach adulthood, although the Government has worked with foreign consular officials to overcome a father's or husband's refusal to permit the travel of adult foreign citizen female relatives. During the year, senior officials considered, on a case-by-case basis, allowing adult foreign citizen women to travel despite objections by their husbands, fathers, or other male relatives or guardians.

Foreigners typically were allowed to reside or work in the country only under the sponsorship of a citizen or business. The Government required foreign residents to

carry identification cards. It did not permit foreigners to change their workplace without their sponsor's permission.

During the year, the Government began providing citizenship under Article 9 of the law on naturalization to some of the thousands of native residents who live in the country without possessing citizenship of any nation. They are collectively known as "Bidoons" ("without" in Arabic). These are native born residents who lack citizenship due to an ancestor's failure to obtain Saudi nationality, including descendents of nomadic tribes such as the Anaiza and Shammar, whose ancestors were not counted among the native tribes during the reign of the Kingdom's founder, King Abd al-Aziz; descendants of foreign-born fathers who emigrated to the country before citizenship was institutionalized; and rural migrants whose parents failed to register their births. Because of their lack of citizenship, they were denied employment and educational opportunities, and had a limited ability to travel. Bidoons are among the poorest residents of the country, and reside at the margins of society.

The law prohibits employers from retaining foreign workers' passports. However, some sponsors often retained possession of foreign workers' passports, although some classes of foreign workers were allowed to keep their passports. Foreign workers must obtain permission from their sponsors to travel abroad. If sponsors were involved in a commercial or labor dispute with foreign employees, they may ask the authorities to prohibit the employees from departing the country until the dispute is resolved. Some sponsors used this as a pressure tactic to resolve disputes in their favor or to have foreign employees deported. There were reports of the Government prohibiting foreign employees involved in labor disputes from departing the country until the dispute was resolved (*see* Sections 5 and 6.c.).

The Government seized the passports of all potential suspects and witnesses in criminal cases and suspended the issuance of exit visas to them until the case was concluded. As a result, some foreign nationals were forced to remain in the country for lengthy periods against their will. The authorities sometimes confiscated the passports of suspected oppositionists and their families.

Citizens may emigrate. The Government prohibited dual citizenship; however, children who hold other citizenship by virtue of birth abroad increasingly were permitted to leave the country using non-Saudi passports. In October, the Government passed a new citizenship law by which long-term residents and other foreigners could obtain citizenship. The Government imposed travel bans on some of the reformers arrested in March (*see* Sections 1.d. and 1.e.).

The Government did not use forced exile; however, it previously revoked the citizenship of opponents of the Government who reside outside the country (*see* Section 3). In addition, the Government has revoked the rights of some citizens to travel outside the country. In several cases, it has done so for political reasons without notifying the individual or providing opportunities to contest the document.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has established a system for providing protection to refugees. The Government cooperated with the office of the U.N. High Commissioner for Refugees in assisting refugees and asylum seeker. The Basic Law provides that "the state will grant political asylum, if so required by the public interest."

The Deputy Representative in the Gulf Cooperation Council States of the U.N. High Commissioner for Refugees (UNHCR) reported that approximately 400 Iraqi refugee families still reside at the Rafha refugee camp situated a few miles from the Saudi-Iraqi border. The Government has underwritten the entire cost of providing safe haven to the Iraqi refugees and continued to provide logistical and administrative support to the UNHCR and other resettlement agencies. The UNHCR has monitored more than 3,000 persons voluntarily returning to Iraq from Rafha since December 1991 and found no evidence of forcible repatriation (*see* Section 1.c.). Citing security concerns, UNHCR was no longer facilitating the organized repatriation of Iraqi refuges.

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

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

Citizens do not have the right to change their Government. The Basic Law states that the Government is established on the principal of "Shura" or consultation, and requires the King and Crown Prince to hold open majlises. The Basic Law states that all individuals have the right to communicate with public authorities on any issue. There were no formal democratic institutions, and only a few members of the ruling family had a voice in the choice of leaders or in changing the political system. The Government ruled on civil and religious matters within limitations established

by the Basic Law, religious law, tradition, and the need to maintain consensus among the ruling family and religious leaders.

The King serves as Prime Minister, with the Crown Prince as First Deputy Prime Minister. The King appoints all other ministers, who in turn appoint subordinate officials with cabinet concurrence.

On November 23, voter and candidate registration for the country's first nationwide municipal elections began for male citizens only. Members of the armed forces may not vote; however, prison inmates were permitted to do so. Of the 178 municipal districts in the country, 50 percent of 4-year term municipal council seats will be elected, and 50 percent will be appointed.

The Majlis al-Shura, or Consultative Council, consists of 120 appointed members and is divided into 11 committees. It was created in 1992 by King Fahd, and, in the past year has taken on an increasingly important political role. The Majlis reviewed and voted on legislation and often suggested amendments to the Government. The Government generally accepted amendments made by the Majlis. The Majlis held hearings with some government officials to review the performance of their ministries and has the power to request documents from government ministries.

The Council of Senior Islamic Scholars (Ulema) is another advisory body to the King and the Cabinet. It reviews the Government's public policies for compliance with Shari'a. The Government viewed the Council as an important source of religious legitimacy and took the Council's opinions into account when promulgating legislation.

Communication between citizens and the Government traditionally has been expressed through client-patron relationships and by affinity groups such as tribes, families, and professional hierarchies. In theory, any male citizen or foreign national may express an opinion or a grievance at a majlis, an open-door meeting held by the King, a prince, or an important national or local official. During the year, Crown Prince Abdullah held a variety of meetings with citizens throughout the country. Ministers and district governors can be approached for discussion at a majlis, which were held on a regular basis.

In April 2003, a group of Shi'a submitted a petition to the Crown Prince calling for reforms and drawing attention to the discrimination against the country's Shi'a minority. In December 2003, a group of citizen intellectuals and citizen women sent two separate petitions to the Crown Prince in response to the pace of reform efforts. One petition called for a constitutional monarchy, while the petition submitted by over 300 women called for greater rights for women in the country and greater recognition of their contributions to society. After the March arrest of the reformers, there were no further petitions.

The extremist Committee for the Defense of Legitimate Rights (CDLR), established in 1993, and its splinter group, MIRA, established in 1996, continued to criticize the Government, using the Internet and satellite radio stations. On December 16, police arrested 21 persons for taking part in an anti-government protest sponsored by MIRA in Jeddah. In December, the U.S. designated MIRA's leader, Sa'ad al-Faqih, a supporter of international terrorism. At year's end, the detainees were awaiting trial (*see* Sections 1.d. and 2.b.).

Following an October 2003 demonstration in Riyadh, hundreds of citizens gathered October 23 in Riyadh, Jeddah, Dammam, and Ha'il. The Government arrested most of the demonstrators, detained many of them for a period of time without sentencing, then sentenced most to varying sentences ranging from imprisonment to flogging, although, at year's end, there were no reports that the sentences had been commuted (*see* Sections 1.d. and 2.b.).

There was a widespread public perception of corruption by some members of the royal family and in the executive branch of the Government. The absence of transparency in government accounts and in decision-making encouraged this perception. There are no laws providing for public access to government information. Women continued to have no formal role in government and politics, despite increased public dialogue on the issue. In November, women participated in a gender-segregated election of the Chambers of Commerce and Industry. Participation by women in a majlis was restricted, although some women sought redress through female members of the royal family. On several occasions, women have been called to advise members of the Majlis al-Shura in private, closed-door sessions. There continued to be women's' councils to advise local governors on issues concerning women. There were no women or religious minorities in the Cabinet, and only 2 of the 120-member Majlis al-Shura were Shi'a.

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

The Government disagreed with internationally accepted definitions of human rights and viewed its interpretation of Islamic law as the only necessary guide to protect human rights. Unlike in last year when for the first time an international human rights group visited the country, there were no visits during the year.

The human rights NGO Human Rights First—the Society for Protecting and Defending Human Rights in the Kingdom of Saudi Arabia—continued to operate without official government recognition.

On March 9, the King authorized the creation of the government patronized National Society for Human Rights (NSHR), which characterized itself as a national nongovernmental organization that has no affiliation with governmental institutions. According to its chairman, who was himself a member of the government-appointed Shura council, none of its members had ties to the executive branch of the Government; they were consultants, professors and retirees. Ten of its 41 members were women. In practice, the Society did not exercise full independence from the Government. In December, the press reported that a Jeddah branch of the office had begun hearing human rights complaints. The report stated that the NSHR handled more than 500 complaints, including "political injustices, administrative corruption, and reports by expatriate workers alleging abuse." The report also noted that citizens' complaints against government bodies comprised 25 percent of the 519 cases, and foreign workers lodged 17 percent of the cases. There was no additional information as to the other complaints.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

There was legal and systemic discrimination based on gender. The law prohibits discrimination based on race, but not nationality, although such discrimination occurred. The Government and private organizations cooperated in providing services for persons with disabilities; however, there is no legislation mandating public access. The Shi'a minority suffered social, legal, economic, and political discrimination (*see* Section 2.c.).

In 2003, the press reported that approximately 1,500 citizens were infected with HIV/AIDS (approximately 23 percent were women). In November, the press reported that the number of HIV/AIDS cases reported in the Kingdom increased by 100 percent. The most common form of contracting the disease was through sexual intercourse; however, the article mentioned the transfer through needle sharing and the treatment of "Hijwah." "Hijwah" is a superstitious medical practice in society that withdraws "bad blood" that may contain illnesses. The article also focused on the social stigma surrounding AIDS and the lack of public education on the issue. In 2003, the Ministry of Health began producing brochures on the illness and started group therapy and awareness programs. In December, the Government sponsored a 2-day conference in Jeddah to raise awareness of the problem in the country.

Women.—In June, the National Dialogue conference endorsed the principle that there should be an expansion of women's role in public life, in addition to reexamining restrictions imposed by custom or tradition rather than Islam. In December 2003, the National Dialogue held its second session, and 10 women participated for the first time.

There were several developments related to women's participation in business, including the opening by the Saudi Arabian General Investment Authority (SAGIA) of an all-female investment center in Riyadh to facilitate investment in local businesses by citizen and foreign women. On January 12, the Government introduced a new locally based satellite news-channel, "Al-Akhbaria," which included six female newscasters on the staff. For the first time in 2003, the Jeddah Economic Forum devoted an entire day to discussing the role of women in domestic and international business.

In October, the Government amended the law on nationality establishing new citizenship rules for women. Under the new law, women may keep citizenship or acquire that of a citizen husband who has acquired another citizenship. Wives of naturalized citizens may also acquire citizenship if resident in the country and willing to relinquish their original nationality. If a citizen woman marries a foreigner and chooses to acquire her husband's citizenship, she will lose Saudi citizenship. Finally, the foreign wife or widow of a citizen will qualify for citizenship if she gives up her original nationality.

During the year, there was increased attention in the press to women's issues, including questions such as gender discrimination, domestic abuse, health, rising divorce rates, employment, driving, and legal problems women face doing business.

Despite great debate in the press and in the media, at year's end, women were not granted permission to participate in the municipal elections.

Shari'a prohibits abuse and violence against all innocent persons, including women; although the Government did not keep statistics on spousal abuse or other forms of violence against women, based on the information available regarding physical spousal abuse and violence against women, such violence and abuse appeared to be common problems. Hospital workers reported that many women were admitted for treatment of injuries that apparently resulted from spousal violence; hospitals now are required to report any suspicious injuries to authorities. A citizen may prevent his wife and any child or unmarried adult daughter from obtaining an exit visa to depart the country, regardless of nationality (*see* Section 2.d.).

Foreign embassies continued to receive many reports that employers abused foreign women working as domestic servants. Some embassies of countries with large domestic servant populations maintained safe houses to which their citizens may flee to escape work situations that included forced confinement, withholding of food, beating and other physical abuse, and rape. Often the reported abuses were committed by female citizens. During the year, the media reported more frequently on cases involving domestic abuse of women, servants, and children. However, in general, the Government considered such cases to be family matters and did not intervene unless charges of abuse were brought to its attention. It was almost impossible for foreign women to obtain redress in the courts due to the courts' strict evidentiary rules and the women and servants' own fears of reprisals. During the year, there were increasing reports of employers being punished for abuse of domestic servants.

By religious law and social custom, women have the right to own property and are entitled to financial support from their husbands or male relatives. However, women have few political or social rights and were not treated as equal members of society. There were no active women's rights groups. Women may not legally drive motor vehicles and were restricted in their use of public facilities when men were present. Women must enter city buses by separate rear entrances and sit in specially designated sections. Women risked arrest by the Mutawwa'in for riding in a vehicle driven by a male who was not an employee or a close male relative.

The law provides that women may not be admitted to a hospital for medical treatment without the consent of a male relative; however this was not generally enforced. By law and custom, women may not undertake domestic or foreign travel alone (*see* Section 2.d.). During the year, the Government continued to issue national identity cards to females, despite a national campaign by some religious conservatives against it.

In public, a woman was expected to wear an abaya (a black garment that covers the entire body) and also to cover her head and hair. The Mutawwa'in generally expected Muslim women to cover their faces and women from other countries in Asia and Africa to comply more fully with local customs of dress than did non-Muslim Western women. Nonetheless, in recent years the Mutawwa'in have instructed Western women to wear the abaya and cover their hair. During the year, Mutawwa'in continued to admonish and harass women to wear their abayas and cover their hair. In 2003, a Mutawwa sexually assaulted a female expatriate, although, at year's end, there was no indication that he was punished.

Restrictions continued on accredited female diplomats that did not apply to their male counterparts. For example, single females must receive exception letters from their embassies in order to stay at a hotel. Some official functions were restricted to male or female participants only.

Women also were subject to discrimination under Shari'a as interpreted in the country, which stipulates that daughters receive half the inheritance awarded to their brothers. While Shari'a provides women with a basis to own and dispose of property independently, women often were constrained from asserting such rights because of various legal and societal barriers, especially regarding employment and freedom of movement. In a Shari'a court, the testimony of one man equals that of two women (*see* Section 1.e.). Although Islamic law permits polygamy, with up to four wives, it was becoming less common due to demographic and economic changes. Islamic law enjoins a man to treat each wife equally. In practice, such equality was left to the discretion of the husband. The Government placed greater restrictions on women than on men regarding marriage to noncitizens and non-Muslims (*see* Section 1.f.).

Women must demonstrate legally specified grounds for divorce, but men may divorce without giving cause. In doing so, men were required to pay immediately an amount of money agreed upon at the time of the marriage, which serves as a one-time alimony payment. Women who demonstrate legal grounds for divorce still were entitled to this alimony. If divorced or widowed, a Muslim woman normally may keep her children until they attain a specified age: 7 years for boys and 9 years for

girls. Children over these ages were awarded to the divorced husband or the deceased husband's family. Numerous divorced foreign women continued to be prevented by their former husbands from visiting their children after divorce.

Women had access to free but segregated education through the university level. They constituted more than 58 percent of all university students but were excluded from studying such subjects as engineering, journalism, and architecture. Men may study overseas; the law provides that women may do so only if accompanied by a spouse or an immediate male relative. However, this restriction was not enforced in practice, and many women studied overseas without a guardian.

Women made up approximately 5 percent of the formal citizen work force. Unemployment among women was approximately 8 percent. Most employment opportunities for women were in education and health care. Despite limited educational opportunities in many professional fields, some female citizens were able to study abroad and return to work in professions such as architecture, law, and journalism. Many foreign women worked as domestic servants and nurses.

Women who wished to enter nontraditional fields were subject to discrimination. Women may not accept jobs in rural areas if there are no adult male kin present with whom they may reside and who agree to take responsibility for them. Most workplaces in which women were present were segregated by gender. Frequently, contact with male supervisors or clients was allowed only by telephone or fax machine. However, the degree of segregation varied by region, with the central region having the most restrictions and the eastern and western regions being more relaxed. Despite gender segregation, the law provides women the right to obtain business licenses for work in fields that might require them to supervise foreign workers, interact with male clients, or deal on a regular basis with government officials. However, in hospital settings and in the energy industry, women and men worked together, and, in some instances, women supervised male employees. Some women and men continued to seek opportunities for women and to break down gender segregation.

Prostitution is illegal. Some women were trafficked for the purpose of prostitution; however, the problem was not widespread (*see* Section 5, Trafficking).

Children.—The Ministry of Education continued to teach children their rights under the U.N. Convention on the Rights of Children.

The Government provided all children with free education and medical care. Children were segregated by sex in schools, usually beginning at the age of 7; however, schools were integrated through the fourth grade in some areas. According to the U.N. Development Program (UNDP), in 2000–01, net primary enrollment for girls was 56 percent and for boys was 61 percent. In 1999–2000, 94 percent of those children of each sex who had started grade 1 had reached grade 5.

Abuse of children was a problem, although it was difficult to gauge the prevalence of child abuse, since the Government kept no national statistics on such cases. Although in general the culture greatly prizes children, studies by citizen female doctors indicated that severe abuse and neglect of children appeared to be more widespread than previously reported. The press has also played an important role in beginning to raise national consciousness about the widespread problem.

In 2003, the Ministry of Interior's Center for Crime Prevention and Research reported that 21 percent of male children suffered from some form of abuse. The report stated that 33.6 percent of the abused, suffered from some sort of psychological abuse and 25.3 percent suffered physical abuse. The figures excluded female children and accusations of sexual abuse, as the Ministry stated that the issues were too sensitive for public discussion.

Trafficking in Persons.—The country does not have an anti-trafficking law, although most forms of trafficking are criminalized under existing statutes. Domestic laborers are not protected under the country's labor law. The majority of cases involving trafficking were settled out of court by mediation and settlements.

During the year, the Government acknowledged trafficking problems in terms of abuse of domestic servants, especially female expatriate workers. The press carried a number of stories on the abuse of maids and other domestic workers, including the prosecution and punishment of citizen employers who abused domestic employees. During the year, the Ministry of Labor formed an internal committee that was preparing an educational program to advise foreign domestic workers of their rights for recourse to authorities if they experience abuse or nonpayment of wages.

On July 4, the Ministry of Labor issued Decree 738/1 which states that "all forms of trafficking in persons such as trading in visas, generating revenues from employing workers, charging fees for the renewal of entry, exit visas and residency permits, violating conditions of contracts, inhumane and unethical use of workers, child labor, abuse and recruitment for begging are totally prohibited."

Among the millions of foreign workers in the country, some persons, particularly domestic workers, were defrauded by employment agencies or exploited by employers; some workers overstay their contracts and are exploited as they have few legal protections. Many foreign domestic servants fled work situations that included forced confinement, beating and other physical abuse, withholding of food, and rape. Police academies have implemented a course for new officers on how to handle labor issues as part of their standard curriculum.

During the year, the authorities disrupted a cross-border (Yemen-Saudi Arabia) child smuggling ring and arrested a man on charges of smuggling maids into Jeddah to work for a brothel, the first reported case of trafficking for sexual exploitation in the country.

The Government operated shelters in the three largest cities for abused female workers, including some trafficking victims. Trafficking victims faced disincentives to seek the prosecution of their employer for trafficking; victims must first file a police report before going to the government shelters if they are party to a criminal complaint. In Dammam, the Government established a Social Welfare office for foreign workers with complaints. The Government worked with several Islamic charities to provide long term care for abandoned children, including those who have been trafficked for forced begging (*see* Section 6.c.).

Persons With Disabilities.—The law provides hiring quotas for persons with disabilities. There is no legislation that mandates public accessibility; however, newer commercial buildings often included such access, as did some newer government buildings. The provision of government social services increasingly has brought persons with disabilities into the public mainstream. The Government and private charitable organizations cooperated in education, employment, and other services for persons with disabilities.

During the year the Government took a variety of steps promoting more rights and elimination of discrimination against persons with disabilities. The Government established an endowment committee for children with disabilities, and a supreme council to deal with the affairs of the disabled with the Crown Prince as chairman. Foreign criminal rings reportedly bought and imported children with disabilities for the purpose of forced begging (*see* Sections 6.c. and 6.f.). There were numerous government-sponsored centers for persons with disabilities, including organizations for children with Down's syndrome and autism.

Police generally transported persons with mental disabilities found wandering alone in public to their families or a hospital. Police claimed that, according to Islam, family members should be taking care of such individuals.

The Crown Prince and other members of the royal family sponsored events during the year benefiting the handicapped.

National/Racial/Ethnic Minorities.—Although racial discrimination is illegal, there was substantial societal prejudice based on ethnic or national origin. Foreign workers from Africa and Asia were subject to various forms of formal and informal discrimination and have the most difficulty in obtaining justice for their grievances. For example, pay scales for identical or similar labor or professional services were set by nationality such that two similarly qualified and experienced foreign nationals performing the same employment duties received varied compensation based on their nationalities.

Section 6. Worker Rights

a. The Right of Association.—The law does not address freedom of association. The Government prohibited the establishment of labor unions; however, since 2001, the Government has permitted the establishment of labor committees for citizens in local companies, including factories, having more than 100 employees. The aim is to facilitate communication between employees and employers and the improvement of work standards in the workplace. The labor committees consist of 3 to 9 members who serve 3-year terms. The committee members are chosen by the workers and approved by the Ministry. The committee may make recommendations to company management to improve work conditions, increase productivity, improve health and safety, and recommend training programs. The Ministry of Labor and Social Affairs may send a representative to attend committee meetings. A committee must provide a written report of its meetings to company management, which also is transmitted to the Ministry. The Ministry may dissolve a labor committee if it violates regulations or threatens public security. No committees existed by year's end. Foreign workers may not serve on the committee; however, committee regulations provide that the committee should represent their views.

b. The Right to Organize and Bargain Collectively.—The Law does not provide for collective bargaining. Collective bargaining remained prohibited. Foreign workers

comprised approximately two-thirds of the work force. There was no minimum wage; wages were set by employers and varied according to the type of work performed and the nationality of the worker (*see* Section 5).

Strikes were prohibited; however, there were several cases in which factory workers in Jeddah staged strikes to protest unpaid wages. The press reported in September 2003 that over 500 foreign workers had not been paid for 18 months, nor had they had their residents permits renewed.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor; however, employers had significant control over the movements of foreign employees, which gave rise to situations that sometimes involved forced labor, especially in remote areas where workers were unable to leave their place of work.

The law does not specifically prohibit forced or bonded labor by children, but it was not a problem, with the rare exception of forced child begging rings, and possibly family businesses. During the year, the authorities disrupted a cross border child smuggling ring and arrested a man on charges of smuggling maids in Jeddah to work for a brothel (*see* Section 5).

Some sponsors prevented foreign workers from obtaining exit visas to pressure them to sign a new work contract or to drop claims against their employers for unpaid salary (*see* Section 2.d.). Additionally, some sponsors refused to provide foreign workers with a "letter of no objection" that would allow them to be employed by another sponsor.

There were many reports of workers whose employers refused to pay several months, or even years, of accumulated salary or other promised benefits. More foreign workers than in the past went to labor courts, which regularly ruled in favor of the workers. However, this was a long and difficult process and it was difficult to enforce judgments. Labor courts, while generally fair, may take many months to reach a final appellate ruling, during which time the employer may prevent the foreign laborer from leaving the country. An employer also may delay a case until a worker's funds were exhausted, and the worker was forced to return to his home country.

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum age for employment is 13 years, which the Ministry of Labor may waive with the consent of the juvenile's guardian. There is no minimum age for workers employed in family-owned businesses or in other areas that are construed as extensions of the household, such as farming, herding, and domestic service.

Children under the age of 18 may not be employed in hazardous or harmful industries, such as mining or industries employing power-operated machinery. While there is no formal government entity responsible for enforcing the minimum age for employment of children, the Ministry of Justice has jurisdiction and has acted as plaintiff in the few cases that have arisen against alleged violators. However, in general, children played a minimal role in the work force.

The majority of child beggars were citizens, many of them girls with disabilities, according to an ILO study reported in 2002. The Ministry maintained special offices in both Mecca and Medina to combat the growing problem of child beggars.

The law does not prohibit specifically forced or bonded labor by children, but it was not a problem, with the rare exception of forced child begging rings, and possibly family businesses (*see* Section 6.c.). The Government implemented a regulation requiring that all camel jockeys be at least 18 years of age, and there were indications that it was enforced.

e. Acceptable Conditions of Work.—There is no legal minimum wage. Labor regulations establish a 48-hour workweek at regular pay and allow employers to require up to 12 additional hours of overtime at time-and-a-half pay. Labor law provides for a 24-hour rest period, normally on Fridays, although the employer may grant it on another day. The average wage generally provided a decent standard of living for a worker and family. Official unemployment numbers varied; however, the Riyadh Chamber of Commerce and Industry announced that, as of October 2003, unemployment among 15–29 year olds was 17 percent of men and 30 percent of women. They also stated that unemployment within the citizen population was expected to reach 30 percent within 3 years if current trends held.

The law prohibits employers from holding their employees' passports without the employee's consent; however, this law was not widely known throughout the country.

Workers risked losing employment if they removed themselves from hazardous work conditions.

Labor regulations require employers to protect most workers from job-related hazards and disease. However, foreign nationals reported frequent failures to enforce

health and safety standards. Farmers, herdsmen, domestic servants, and workers in family-operated businesses were not covered by these regulations.

Some foreign nationals who have been recruited abroad claimed that, after their arrival in the country, they were presented with work contracts that specified lower wages and fewer benefits than originally promised. Other foreign workers reportedly signed contracts in their home countries and later were pressured to sign less favorable contracts upon arrival. Some employees reported that, at the end of their contract service, their employers refused to grant permission to allow them to return home. Foreign employees involved in disputes with their employers may find their freedom of movement restricted (*see* Section 2.d.).

The labor laws, including those designed to limit working hours and regulate working conditions, do not apply to foreign domestic servants, and such domestic servants may not seek the protection of the labor courts. There were credible reports that female domestic servants sometimes were forced to work 16 to 20 hours per day, 7 days per week. There were numerous confirmed reports of maids fleeing employers and seeking refuge in their embassies or consulates (*see* Section 5). Foreign embassies continued to receive reports of employers abusing domestic servants. Such abuse included withholding of food, beatings, and other physical abuse, and rape (*see* Section 5). During the year, the media continued to report stories of maids who had fled their place of employment.

The Government has established welfare shelters to house female domestic servants who flee their place of work. The Government offered arbitration between the worker and employer and investigated allegations of abuse. If no agreement could be reached, the maid was deported to her home country. In at least two publicized cases during the year, citizen employers were jailed for extreme abuse of domestic servants. During the year, the Grand Mufti warned citizens that Islam does not permit the oppression of workers regardless of their religion.

The ongoing campaign to remove illegal immigrants from the country has done little to Saudiize the economy because illegal immigrants largely worked in low-income positions, which most citizens considered unsuitable. The Government carried out the campaign by widely publicizing its enforcement of existing laws against illegal immigrants and citizens employing or sponsoring illegal immigrants.

The effect of the expeditious repatriation during the year of some illegal immigrants and the legalization of others has been to improve overall working conditions for legally employed foreigners. Illegal immigrants generally were willing to accept lower salaries and fewer benefits than legally employed immigrants. The departure or legalization of illegal workers reduced the competition for certain jobs and thereby reduced the incentive for legal immigrants to accept lower wages and fewer benefits as a means of competing with illegal immigrants. Furthermore, their departure or legalization removed a large portion of the class of workers most vulnerable to abuse and exploitation because of their illegal status.

SYRIA

Syria is a republic under an authoritarian regime with virtually absolute authority in the hands of the President. The President, with counsel from his ministers, senior members of the ruling Ba'th Party, and a small circle of security advisers, makes key decisions regarding foreign policy, national security, internal politics, and the economy. President Bashar al-Asad was confirmed by an unopposed referendum in July 2000 for a 7-year term. The President appoints vice presidents, the prime minister, deputy prime ministers, and the cabinet, or Council of Ministers. Ba'th Party leaders, whose primacy in state institutions and the Parliament is mandated by the Constitution, influence all three branches of the Government. The Parliament, elected in March 2003, may not initiate laws but only assess and, at times, modify those proposed by the executive branch. The Constitution provides for an independent judiciary; however, security courts were regularly subject to political influence. Political connections and bribery sometimes influenced verdicts in regular courts.

The powerful role of the security services, which extends beyond strictly security matters, is due to the state of emergency, which has been in place since 1963. The Government justifies ongoing martial law because of its state of war with Israel and past threats from terrorist groups. Syrian Military Intelligence and Air Force Intelligence are military agencies; the Ministry of Interior controls general security, state security, and political security. The branches of the security services operated independently of each other and outside the legal system. The Government maintained

effective control of the security forces, and members of the security forces committed numerous, serious human rights abuses.

The country has a population of approximately 18 million and an economy based on commerce, agriculture, oil production, and services. A variety of factors hampered economic growth, including the dominant state role in the economy, a complex bureaucracy, security concerns, corruption, currency restrictions, a lack of modern financial services and communications, and a weak, corrupt legal system. Economic growth was estimated at less than 2.5 percent in the last year.

The Government's human rights record remained poor, and the Government continued to commit numerous, serious abuses. Citizens did not have the right to change their government. The Government prevented any organized political opposition, and there have been few antigovernment manifestations. Continuing serious abuses included the use of torture in detention, which at times resulted in death; poor prison conditions; arbitrary arrest and detention; prolonged detention without trial; fundamentally unfair trials in the security courts; and infringement on privacy rights. The Government significantly restricted freedom of speech and of the press. The Government also severely restricted freedom of assembly and association. The Government did not officially allow independent domestic human rights groups to exist. The Government placed some limits on freedom of religion and freedom of movement. Violence and societal discrimination against women were problems. The Government's discrimination against the stateless Kurdish minority resulted in a series of riots in March centered in the Hassakeh province which spread to other parts of the country during which more than 30 persons were reportedly killed by security forces and more than 1000 arrested. The Government also restricted worker rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—According to Amnesty International (AI) and the Human Rights Association of Syria (HRAS), there were eight persons who died in detention due to torture or mistreatment by the security services during the year. Most of the cases involved Kurdish citizens detained and tortured in the wake of the riots in the Hassakeh province in March. In one case, Firas Abdallah, the household employee of a famous singer, died while in police custody in Damascus as a result of beatings. Human rights lawyers tried to bring a case against the police on behalf of the deceased, but the state prosecutor refused to accept it.

In March, security forces opened fire with live ammunition on Kurdish citizens during civil disturbances and demonstrations, killing 30 civilians in Hassakeh province on March 12 and between 5 to 8 Kurdish demonstrators in Aleppo on March 16 (*see* Section 5).

On April 8, media sources reported that Hussein Hamak Nasso, a 26-year-old Kurd, died after being tortured by security forces in the town of Afreen. Security forces reportedly then forced Nasso's family to secretly bury him in their presence.

On October 30, an off-duty Sunni military officer and his brother killed two Assyrian Christians in Hassakeh province. The conflict began when the military officer tried to extort money from one of the Assyrians. Some members of the Assyrian community violently protested the murders. In response, the government arrested 12 Assyrians. No charges were brought against the officer or his brother.

b. Disappearance.—There were no confirmed reports of politically motivated disappearances; however, HRAS continued to report numerous cases of disappearance that occurred up to 20 years ago. Mohammed Fahed Al-Shaar was detained at Damascus airport in 1982; since then, the Government has not provided any information on his case. The Government frequently detained political prisoners and held them in long-term detention without informing the families of their situation (*see* Section 1.e.). For example, the family of a recently released prisoner had no knowledge about his well-being while he was in custody. Many persons who disappeared in the past were believed to have died or to be in long-term detention.

The Government has yet to punish any members of the security forces for their roles in these abductions and disappearances.

The Government continued to withhold new information on the welfare and whereabouts of persons who have been held incommunicado for years or about whom little is known other than the approximate date of their detention. Despite the Government's claim that it has released all Palestinians, Jordans, and Lebanese citizens reportedly abducted from Lebanon during and after its civil war, various nongovernmental organizations (NGOs) and family members of those who allegedly remain in prison continued to dispute the Government's claim (*see* Section 1.d.).

c. Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and the Penal Code provides punishment for abusers. Under Article 28 of the Constitution, "no one may be tortured physically or mentally or treated in a humiliating manner." However, there was credible evidence that security forces continued to use torture frequently.

There were reports of death in prison due to torture (*see* Section 1.a.).

During the year, HRAS reported numerous cases of security forces using torture on prisoners in custody, including the case of five Kurdish students detained by the police in April and reportedly beaten and subjected to electric shocks for 3 days (*see* Section 5). The torture of political detainees was a common occurrence. AI reported the case of four young men arrested in April of 2003 in Daraa and held in Saidnaya prison where they were subjected to various forms of torture and ill-treatment, including having their fingers crushed; receiving beatings to their face and legs; having cold water thrown on them; being forced to stand for long periods of time during the night; hearing loud screams and beatings of other detainees; being stripped naked in front of others; and being prevented from praying and growing a beard.

Former prisoners and detainees, as well as the HRAS, reported that torture methods included administering electrical shocks; pulling out fingernails; forcing objects into the rectum; beating, sometimes while the victim was suspended from the ceiling; hyperextending the spine; bending the detainees into the frame of a wheel and whipping exposed body parts; and using a backward-bending chair to asphyxiate the victim or fracture the victim's spine. Torture was most likely to occur while detainees were being held at one of the many detention centers run by the various security services throughout the country, particularly while the authorities were attempting to extract a confession or information. For example, in July, a Syrian-Canadian citizen reportedly was tortured while being questioned by security services (*see* Section 1.e).

Past victims of torture have identified the officials who tortured them, up to the level of brigadier general. If allegations of excessive force or physical abuse were to be made in court, the plaintiff was required to initiate his own civil suit against the alleged abuser. However, no action was taken against the accused. There were no examples of such allegations during the year. Courts did not order medical examinations for defendants who claimed that they were tortured (*see* Section 1.e.).

August 19 marked the Government's accession to the U.N. Convention against Torture, but the Government's reservation to Article 20 prevents outside observers from investigating torture within the country.

Prison conditions generally were poor and did not meet international standards for health and sanitation. At some prisons, security officials demanded bribes from family members. Overcrowding and the denial of food remained problems at several prisons. According to the Arab Organization for Human Rights (AOHR), Abdul Karim Dhaon, an official at the Ministry of Health, was arrested in May for allegedly writing a report about the unacceptable conditions at the prisons that he supervised. According to Human Rights Watch (HRW), prisoners and detainees were held without adequate medical care, and some prisoners with significant health problems reportedly were denied medical treatment. Some former detainees reported that the Government prohibited political prisoners from having access to reading materials, including the Koran.

There were separate detention facilities for men, women, and children. But there were at least three reported cases where minors were arrested and held in adult prisons. Pretrial detainees, particularly those held for political or security reasons, were usually held separately from convicted prisoners. Facilities for political or national security prisoners generally were worse than those for common criminals. Released political detainees have reported inadequate prison conditions, including overcrowded cells and a shortage of beds.

The Government did not permit independent monitoring of prison or detention center conditions; however, diplomatic or consular officials were granted access in some cases. The International Committee of the Red Cross (ICRC) is not allowed to make prison visits to assess the situation of the prisons or prisoners.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, in practice, these activities persisted and remained significant problems.

The Ministry of Interior controlled the police forces, which consist of four separate divisions: emergency police; local neighborhood police; riot police; and traffic police. The emergency division responds to 911 calls and operates through roving patrols. The local neighborhood police are responsible for general security in the neighborhood they patrol and respond to non-emergency situations. The Government uses the riot police to break up demonstrations and marches.

There are four major branches of security: Political Security Directorate (PSD); Syrian Military Intelligence (SMI); General Intelligence Directorate (GID); and Air Force Security (AFS), all of which devote some of their overlapping resources to monitoring internal dissent and individual citizens. Only PSD, supervised by the Ministry of Interior, is under civilian control. The four branches operate independently and generally outside of the control of the legal system.

Corruption continued to be a serious problem throughout the police forces and security services. International and regional human rights groups continue to consider the police forces corrupt.

The arrest procedure for non-emergency cases is similar to the process in Western countries. After being arrested, an individual is brought to the police station for processing and detained until a trial date is set. At this time, the accused may retain an attorney at personal expense or that of the Government. The individual will then be tried in a civil court, where a judge will render a verdict (*see* Section 1.e.).

The 1963 Emergency Law authorizes the Government to conduct preventive arrests and overrides Constitutional and Penal Code provisions against arbitrary arrest and detention, including the need to obtain warrants. In cases involving political or national security offenses, arrests were often carried out in secret. Suspects could be detained incommunicado for prolonged periods without charge or trial and denied the right to a judicial determination regarding pretrial detention. Additionally, those suspected of political or national security offenses could be arrested and prosecuted under ambiguous and broad articles of the Penal Code and subsequently tried in either the criminal or security courts. There were reliable reports that the Government did not notify foreign governments when their citizens were arrested or detained or did so only after the prisoner was released.

Warrants only exist for non-security cases; however, police bypass this requirement in many instances by claiming security or emergency grounds for entry.

During the year, the security forces again conducted mass arrests of suspected Islamists: 25 in Hama; 18 in Hayaleen; 19 in Qatana; and an unknown number in Damascus and Aleppo. In March, the Supreme State Security Court (SSSC) sentenced 33 persons to 2 years in prison who had been arrested in Aleppo in August 2003 and accused of belonging to the Muslim Brotherhood. The suspects remained in detention at year's end.

In April, military security arrested the human rights activist Aktham Naiissa, head of the Committee for the Defense of Democracy, Freedom, and Human Rights (CDF), for his involvement in a protest in front of the Parliament in March and for communiqués issued by the CDF critical of the Government's treatment of the Kurdish minority (*see* Section 2.b.). Naiissa was held at Saidnaya prison without access to his lawyer and was tried by the SSSC; he was released on bail in August. His trial has been postponed twice, and it is now scheduled for April 4, 2005.

Throughout the year, the security services also conducted mass arrests of Kurds in Hassakeh province, Aleppo, Damascus, and other areas. Human rights organizations and Kurdish groups reported that 1,000–2,000 Kurds were detained in the aftermath of the March riots. Most were freed after a few months detention; however, 200–300 Kurds remain in custody and are awaiting trial at the SSSC and military courts (*see* Section 4).

Media sources reported that in April, security forces increasingly staged nighttime raids on Kurdish homes in Hassakeh province and arbitrarily arrested male members of households. Press reports also stated that on April 8, following a dispute between Kurdish children and Arab students at a school in Qamishli, security forces took four school children, ages 12 and 13, from the school during the day and transferred them to a prison in Hassakeh. At year's end, the children were reportedly still detained.

On August 5, five persons were injured and 18 others arrested in a village outside of Hama after security services, while apparently pursuing a criminal, sparked and then broke up a protest against the Ba'th Party. There were conflicting accounts of the story. Human rights groups claimed the security services randomly fired on a group of persons as they watched the police chase an alleged member of a banned Islamic Party. Police claimed they were chasing the suspect when he went into a home and received refuge from the owners. The owners of the house refused to turn the man over to police, and there was an ensuing gun battle between the two sides. On August 7–8, according to regional press reports and HRAS, security agents arrested 25 persons, including four Muslim imams, in house raids around the city of Hama, seizing books, CDs, and computer equipment in connection with this incident.

Detainees have no legal redress for false arrest. The authorities detained those critical of the Government under the Emergency Law and charged them with treason.

In cases before the regular courts, judges render verdicts. There are no juries.

Defendants in civil and criminal trials have the right to bail hearings and possible release from detention on their own recognizance. Bail was generally not allowed for those accused of "state security offenses." The only exception to this was the release from the SSSC of Aktham Naiissa in August on bail. Unlike defendants in regular criminal and civil cases, security detainees did not have access to lawyers prior to or during questioning.

Lawyers were not ensured access to their clients before the trial (*see* Section 1.e.).

Many persons who have disappeared in past years were believed to be in long-term detention without charge or possibly to have died in detention. Many detainees brought to trial have been held incommunicado for years, and their trials often were unfair. Many criminal suspects were held in pretrial detention for months and may have had their trials extended for additional months. Lengthy pretrial detention and protracted court proceedings were caused by a shortage of available courts and the absence of legal provisions for a speedy trial or plea-bargaining (*see* Section 1.e.).

The Government continued threatening or detaining the relatives of detainees or of fugitives to obtain confessions, to minimize outside interference, or to prompt the fugitive's surrender. There were reports that security personnel forced prisoners to watch relatives being tortured in order to extract confessions. According to AI and the HRAS, security forces also detained family members of suspected oppositionists (*see* Section 1.f.).

The Government, through its security services, also threatened families or friends of detainees to ensure their silence, to force them to disavow publicly their relatives, or to force detainees into compliance. For example, the family of a human rights activist received numerous calls from security service personnel alleging misconduct and inappropriate social behavior by the activist. These calls continued during the year and became increasingly threatening.

The number of remaining political detainees was unknown. AI's 2003 report stated that 800 political detainees were held in Saidnaya prison and that hundreds of others were held in other prisons. There also were Jordanian, Lebanese, and Palestinian political detainees. Estimates of detainees were difficult to confirm because the branches of the security services, which maintain their own prison facilities, hold a large number of prisoners. These prisoners are frequently held for extended periods of time without trial and without information given to their families. Estimates were also difficult to confirm because the Government did not verify publicly the number of detentions without charge, the release of detainees or amnestied prisoners, or whether detainees subsequently were sentenced to prison (*see* Section 1.e.).

Former prisoners were subject to a so-called "rights ban," which begins from the day of sentencing and lasts for 7 years after the expiration of the sentence, in the case of felony convictions. Persons subjected to this ban were not allowed to vote, run for office, or work in the public sector; they often also were denied passports. In practice, restrictions may continue beyond that period.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the Supreme State Security Court (SSSC), in dealing with cases of alleged national security violations, was not independent of executive branch control. Political connections and bribery sometimes influenced verdicts in regular courts.

The judicial system is composed of the civil and criminal courts, military courts, the SSSC, and religious courts, which adjudicate matters of personal status such as divorce and inheritance (*see* Section 5). The Court of Cassation is the highest court of appeal. The Supreme Constitutional Court rules on the constitutionality of laws and decrees; however, it does not hear appeals.

Civil and criminal courts are organized under the Ministry of Justice. Defendants before these courts are entitled to the legal representation of their choice; the courts appoint lawyers for indigents. Defendants are presumed innocent, and they are allowed to present evidence and to confront their accusers. Trials are public, except for those involving juveniles or sex offenses. Defendants can appeal their verdicts to a provincial appeals court and ultimately to the Court of Cassation. Such appeals were often difficult to win because the courts do not provide verbatim transcripts of cases—only summaries prepared by the presiding judges. There are no juries.

Military courts have the authority to try civilians as well as military personnel. A military prosecutor decides the venue for a civilian defendant. There have been reports that the Government operated military field courts in locations outside established courtrooms. Such courts reportedly observed fewer of the formal procedures of regular military courts. Amnesty International reported that in April a secret field military court sentenced Muhammed Shehada and Mutaz Murad to 3 years in prison and Haythem Al Hawmi and Yahy Sharabajee to 4 years for "at-

tempting to establish a religious organization, involvement in unlicensed social activities and attending unlicensed religious and intellectual classes." The men were arrested in May 2003 in the town of Darya and reportedly were not represented by a lawyer.

On April 1, after excessive delay, the military court of Aleppo sentenced 13 persons to 3 months in prison and another man to 1 year in prison for attending an unlicensed lecture on the Emergency Law in August 2003. The "Aleppo 14," as the group had become known, had originally been arrested for "belonging to a secret society" and for "conspiring against the Syrian nation" (*see* ction 2.b.). All 14 men were released in June.

The trial of the "Dumar 15," a group of 15 Kurdish men who were arrested in the aftermath of riots in the Dumar neighborhood of Damascus in March, has been delayed four times since it began in August.

HRAS estimated there were 160 Kurdish citizens awaiting trial in the Military Court of Damascus for their alleged role in rioting in Damascus following the troubles in Hassakeh in March. At year's end, they were still awaiting trial.

The SSSC tried political and national security cases and operated under the provisions of the Emergency Law. The SSSC did not observe the constitutional provisions safeguarding defendants' rights. The Emergency Law and the Penal Code are so broad and vague, and the Government's powers so sweeping, that many persons have been convicted and many remain in prison for the mere expression of political opposition to the Government. In April 2001, the U.N. Commission on Human Rights stated that the procedures of the SSSC are incompatible with the provisions of the International Covenant on Civil and Political Rights, to which the country is a party.

Charges against defendants before the SSSC were vague. Defendants appeared to be tried for exercising normal political rights, such as free speech. For example, the Emergency Law authorizes the prosecution of anyone "opposing the goals of the revolution," "shaking the confidence of the masses in the aims of the revolution," or attempting to "change the economic or social structure of the State." The Government stated that the SSSC tries only persons who have sought to use violence against the State, but the majority of defendants who appeared before the SSSC this year were prosecuted for exercising their political rights.

Under SSSC procedures, defendants were not present during the preliminary or investigative phase of the trial, during which the prosecutor presents evidence. Trials usually were closed to the public. Lawyers were not ensured access to their clients before the trial and were excluded from the court during their client's initial interrogation by the prosecutor. Lawyers submitted written defense pleas rather than making oral presentations.

During the year, there was one case in which a lawyer representing defendants in a national security case had his license to practice law suspended. The Government's case was based on confessions, and the defendants were not allowed to argue that their confessions were coerced.

On July 11, the SSSC acquitted for lack of evidence a Syrian-Canadian citizen arrested in 2002 when he returned home to Syria to visit his family. The individual was charged with belonging to a religious group and was reportedly tortured while in detention (*see* Section 1.c.).

Defendants did not have the right to appeal verdicts, but the Minister of Interior, who may ratify, nullify, or alter them, reviews sentences. The President also may intervene in the review process.

Accurate information regarding the number of cases heard by the SSSC was difficult to obtain, although hundreds of cases were believed to pass through the court annually. Many cases reportedly involved charges relating to membership in various banned political groups, including religious parties such as the Muslim Brotherhood, the Islamic Liberation Party, the Party of Communist Action, Syrian Kurdish Parties and the pro-Iraqi wing of the Ba'th Party. Sentences as long as 15 years have been imposed in the past. Human rights NGOs were not permitted to visit the SSSC; however, local lawyers affiliated with local NGOs acted as defense counsel in some cases (*see* Section 4).

On February 14, the Government issued Legislative Decree 16 abolishing the Economic Security Courts. These courts, established in 1977, focused on economic crimes, particularly those involving the illegal possession or exchange of foreign currency and violations of the country's once highly restrictive import regulations. Economic crimes are now adjudicated in the regular courts.

The exact number of political prisoners was unknown. HRAS estimated there were approximately 550 political prisoners held in Saidnaya prison and up to several thousand more political prisoners held in other prisons throughout the country. These estimates may partially overlap with the reported number of political detain-

ees (*see* Section 1.d.). The Government did not permit regular access to political prisoners by international humanitarian organizations. HRAS reported that more than 80 percent of political prisoners serving long-term sentences remained in prison, despite the expiration of their sentences.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the Emergency Law authorizes the security services to enter homes and conduct searches without warrants if broadly defined security matters are involved. The security services selectively monitored telephone conversations and fax transmissions. The Government opened mail destined for both citizens and foreign residents. The Government routinely monitored Internet communications, including e-mail, and blocked access to some internet sites (*see* Section 2.a.). A new regional satellite company provided internet access via satellite, beyond the control of the Government.

The Government detained relatives of detainees or of fugitives to obtain confessions or the fugitive's surrender (*see* Section 1.d.).

In the past, the Government and the Ba'th Party monitored and attempted to restrict some citizens' visits to foreign embassies and cultural centers. In June, the SSSC sentenced three individuals to prison terms ranging from 6 months to 1 year for allegedly giving false information to a diplomatic mission in Damascus.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and the press; however, the Government significantly restricted these rights in practice. The Government strictly controlled the dissemination of information and prohibited written or oral criticism of the Government. The Government also prohibited discussion of sectarian issues. There were detentions and beatings for individual expressions of opinion that violated these unwritten rules. The Government also threatened activists in an attempt to control behavior. Journalists and writers practiced self-censorship. The Minister of Information, Dr. Mahdi Dakhlallah, has taken steps to allow more freedom of the press. For example, in December the Ministry of Information recommended the licensing of an independent association of journalists (*see* Section 2.b.).

A number of independent periodicals were published during the year, including the National Progressive Front's (NPF) Communist Party newspaper, The People's Voice; the NPF's Union Socialist Party's private newspaper, The Unionist; a private satirical weekly newspaper, Black and White; and The Economist, which was critical of government performance. In July 2003, the Ministry of Information closed the Lamplighter, a satirical weekly. Later in 2003, one of the Lamplighter's former editors began publication of the Wasp, a social satirical weekly magazine.

The print and electronic media at times were critical of the Ba'th Party and government performance and reported openly on a range of social and economic issues. In March, a journalist for the government-owned daily, The Revolution, was fired over an article he wrote on pollution in the drinking water in Hassakeh province. The journalist was later reinstated after a campaign by The Economist magazine. Some Damascus-based correspondents for regional Arab media were able to file reports on internal political issues, such as rumored governmental changes, new political discussion groups, and the possible introduction of new parties to the NPF.

The media continued to broaden their reporting on regional developments, including the Middle East peace process. The media covered some peace process events factually, but others were reported selectively to support official views. The government-controlled press increased its coverage of official corruption and governmental inefficiency. A few privately owned newspapers published during the year, and foreign-owned, foreign-published newspapers continued to circulate relatively freely.

The Government or the Ba'th Party owned and operated the radio and television companies and most of the newspaper publishing houses. The Ministry of Information closely monitored radio and television news programs to ensure adherence to government policies. The Government did not interfere with broadcasts from abroad. Satellite dishes were widely used and available.

The Emergency Law and Penal Code articles dealing with crimes against state security allowed the Government broad discretion in determining what constitutes illegal expression. The Emergency Law prohibits the publication of "false information" which opposes "the goals of the revolution" (*see* Section 1.e.). Penal Code articles prohibit acts or speech inciting confessionalism.

The 2001 Publications Law permits the reestablishment of publications that were circulated prior to 1963 and establishes a framework in which the National Progressive Front (NPF), as well as other approved private individuals and organizations, would be permitted to publish their own newspapers. However, the law also stipulates imprisonment and stiff financial penalties as part of broad, vague provisions

prohibiting the publication of "inaccurate" information, particularly if it "causes public unrest, disturbs international relations, violates the dignity of the state or national unity, affects the morale of the armed forces, or inflicts harm on the national economy and the safety of the monetary system." Persons found guilty of publishing such information were subject to prison terms ranging from 1 to 3 years and fines ranging from 500,000 to 1 million pounds ($10,000 to $20,000). The amendments to the Publications Law also impose strict punishments on reporters who do not reveal their government sources in response to government requests.

The Government imprisoned journalists for failing to observe press restrictions. In 2002, the Government arrested journalist Ibrahim Hamidi on charges of "publishing unfounded news" in violation of the Publications Law. This "unfounded news" was believed to be an article in the London-based al-Hayat discussing the Government's contingency planning for possible hostilities in Iraq. Hamidi was jailed for 5 months and released on bail on May 25, although his trial before the SSSC continues to be delayed.

In June, the SSSC sentenced Abdel Rahman Al Shaghuri to 2 years in prison for emailing a newsletter from the banned website Levant News. In July, the SSSC sentenced 3 persons accused of revealing state secrets to sentences of 2–4 years for their role in publishing an article in an Emirates-based electronic journal.

The Government restricted all Kurdish language publications and arrested journalists who wrote in favor of greater Kurdish rights. The trial of journalist and student Massud Hamid, arrested in July 2003 for posting a picture of the June 2003 Kurdish UNICEF protest on a banned website, continued.

On August 29, the SSSC sentenced Ferhat Abdalrahman and Ibrahim Nassam to 3 years in prison. Abdalrahman was charged with writing articles in Lebanon for an unlicensed Kurdish Party publication; Nassam was charged with presenting a petition to the Government for greater political freedom for the Kurds. In March, Muhammad Ghanem was arrested reportedly for articles he had written in Emirates-based dailies on the problems in Hassakeh Province.

In November, citizen journalist Louai Hussein was ordered by the Interior Ministry to stop writing. Two state-security officials came to his home in the northern coastal city of Latakia and delivered a written order from the Interior Ministry's political-security office banning him from writing. The Government did not give a reason for the ban, although it informed him 2 weeks later that he could write again.

On December 2, Syrian-Kurdish journalist Taha Hamed was arrested for writing a number of articles abroad which were critical of the Government's relationship with the Kurds. Hamed was released a week later.

The Ministry of Information and the Ministry of Culture and National Guidance censored domestic and imported foreign press. Publication or distribution of any material deemed by security officials as threatening or embarrassing to high levels of the Government was prohibited. Censorship usually was stricter for materials in Arabic.

The Ministry of Culture and National Guidance also censored fiction and nonfiction works, including films. It also approved films shown at the cultural centers operated by foreign embassies. The Government prohibited the publication of books and other materials in Kurdish; however, there were credible reports that Kurdish language materials were available in the country (*see* Section 5).

Internet and e-mail access was limited but growing. The Government blocked access to selected Internet sites that contained information deemed politically sensitive or pornographic in nature. The Government banned access to two Kurdish websites, to foreign-based websites of unlicensed opposition parties, and to news websites critical of the Government.

The Government restricted academic freedom. Public school teachers were not permitted to express ideas contrary to government policy; however, authorities permitted somewhat greater freedom of expression at the university level. The Government continued its policy of only allowing Ba'th Party members to study political science at Damascus University. Ba'th Party members were also given preferential admissions treatment into the university.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of assembly; however, the Government did not respect this right in practice. Citizens could hold demonstrations if the Ministry of Interior granted permission; however, the Government or the Ba'th Party organized most public demonstrations and selectively permitted some demonstrations, usually for political reasons. The Government also applied the restrictions on public assembly in Palestinian refugee camps, where only controlled demonstrations were allowed.

In December 2003, the Government permitted a protest on International Human Rights Day, the first human rights demonstration ever approved.

The Government required political forums and discussion groups to obtain prior approval to hold lectures and seminars and to submit lists of all attendees. Despite these restrictions several domestic human rights and civil society groups held meetings without registering with the Government or obtaining prior approval for the meetings. However, in August 2003, the Government arrested and later released 21 persons in Aleppo for attempting to attend an unapproved lecture marking the 40th anniversary of the declaration of the Emergency Law. Fourteen persons, who came to be known internationally as the "Aleppo 14," were subsequently charged with "belonging to a clandestine organization" and "undertaking acts of incitement." In April, the Military Court of Aleppo sentenced them to terms ranging from 3 months to 1 year (*see* Section 1.e.).

There were numerous demonstrations during the year, most of which were permitted or organized by the Government to protest Israeli treatment of Palestinians and U.S. policies in Iraq. There were also several demonstrations during the year by human rights activists, which were not government-supported.

On February 25, security forces detained 10 students at the University of Aleppo for protesting Decree #6 which ended the Government's policy of guarantying employment to all engineering graduates. Eight of the students were released the following month; however, dozens of students were expelled from university for their participation. At year's end, two of the students, Mohammed Al Arab and Muhammed Al Debs, remain in detention with a case pending before the SSSC. The trial of the two students is expected to resume on March 6, 2005.

On March 8, the CDF, led by Aktham Naiissa, protested in front of Parliament, calling for the repeal of the Emergency Law and greater political freedoms. Security forces detained 104 persons, including a foreign citizen, a foreign diplomatic observer, and international journalists, all of whom were released the same day.

On June 21, human rights and civil society groups attempted to hold a demonstration in a central square of Damascus to commemorate the anniversary of the longest held political prisoner in the country. More than 500 riot police deployed in the square, preventing the demonstration. Security forces beat 10 persons and briefly detained 8 demonstrators.

On December 8, the International Human Rights Day protest by Kurds and human rights activists was organized without government approval. Government security forces intervened forcibly to prevent protesters from reaching the intended protest site.

In June 2003, the security forces forcibly broke up a demonstration by Kurdish school children and arrested eight of the adults accompanying them. In June 2004, the SSSC sentenced seven of these Kurdish activists to prison terms of 1 to 2 years. The eighth detainee was released without any charges being brought against him.

In 2002, the Government permitted a demonstration by the Kurdish Yekiti party in front of Parliament, but 2 days later it arrested 2 of the organizers. In January 2003, the SSSC tried these two organizers for belonging to an illegal organization and for conspiring to annex part of the country's territory to another state. The SSSC sentenced the men to 3 years in prison, then reduced their sentences to 14 months and released them on February 22, 2004 for time-served.

The Constitution permits private associations, but it also grants the Government the right to limit their activities. In practice, the Government restricted freedom of association. Private associations are required to register with authorities, and requests for registration are usually denied, presumably on political grounds. The Government usually granted registration to groups not engaged in political or other activities deemed sensitive.

In August, the Government denied registration to the Arab Organization for Human Rights (AOHR); in November, the Government also denied registration to the Syrian Human Rights Organization (also known as SWASIAH, or "equal"). The CDF and HRAS were both denied registration in the past, and both organizations operate without government permission or support.

The Government did not permit the establishment of independent political parties (*see* Section 3).

In 2002, the Government sentenced 10 human rights activists, who had called for the expansion of civil liberties and organized public dialogue, to lengthy prison terms for crimes against state security. Two of these activists were released in September after completing their prison sentence. Six activists remained in prison on longer sentences (*see* Sections 1.d. and 2.a.).

In December, the Ministry of Information recommended the licensing of an independent association of citizen journalists who report for regional Arab media, according to press reports. The 5-year effort by journalists to form the association had long been blocked by the Government (*see* Section 2.a.). No license has yet been issued.

The executive boards of professional associations were not independent. Members of the Ba'th Party generally led the associations; however, nonparty members could serve on their executive boards.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, it imposed restrictions in some areas. The Constitution requires that the President be a Muslim. There is no official state religion. Sunni Muslims constituted the majority of the population.

All religions and religious orders must register with the Government, which monitored fundraising and required permits for all meetings by religious groups, except for worship. There was a strict separation of religious institutions and the State. Religious groups tended to avoid any involvement in internal political affairs. The Government, in turn, generally refrained from involvement in strictly religious issues. The Government approves all textbooks, which present religion as a way to foster national unity and tolerance.

The Government considered militant Islam a threat and followed closely the practice of its adherents. The Government allowed many new mosques to be built; however, sermons were monitored and controlled.

HRAS reported three large-scale arrests of suspected Islamists during the year (*see* Section 1.d.).

All schools are government-managed and nonsectarian; however, Christian and Druze minorities operate some schools. There was mandatory religious instruction in schools, with government-approved teachers and curriculums. Religion courses were divided into separate classes for Muslim, and Christian students. Although Arabic is the official language in public schools, the Government permitted the teaching of Armenian, Hebrew, Syriac (Aramaic), and Chaldean as "liturgical languages."

Muslims and Christians are subject to their respective religious laws on marriage, divorce, child custody, and inheritance (*see* Section 5).

Although the law does not prohibit proselytizing, in practice, the Government discouraged such activity, particularly when it was deemed a threat to the relations among religious groups. Foreign missionaries were present, but operated discreetly.

Government officials occasionally used radio, television programming, news articles, and other mass media to condone anti-Semitic material, and, in some instances, to support its export. The Government tightly controlled the press, which regularly published anti-Israeli articles.

In 2003, a private Syrian film company also produced an anti-Semitic telvision series, Ash-Shatat ("The Diaspora"), and filmed it inside the country. The theme of this program centered on the alleged conspiracy of the "Elders of Zion" to orchestrate both world wars and manipulate world markets to create Israel. Although national television declined to air the program, it was shown on the Lebanese satellite television station Al-Manar. The closing credits of the programs give "special thanks" to various government ministries, including the security ministry, the culture ministry, the Damascus Police Command, and the Department of Antiquities and Museums.

The Government barred the approximately 85 Jewish citizens in the country from government employment and exempted them from military service obligations. Jews also were the only religious minority group whose passports and identity cards noted their religion. Jewish citizens must obtain permission from the security services before traveling abroad and must submit a list of possessions to ensure their return to the country. Jews also faced extra scrutiny from the Government when applying for licenses, deeds, or other government papers. The Government applied a law against exporting any of the country's historical and cultural treasures to prohibit the Jewish community from sending historical Torahs abroad.

In 1964, the Government banned Jehovah's Witnesses as a "politically motivated Zionist organization"; however, members of Jehovah's Witnesses have continued to practice their faith privately, despite the official ban.

The Constitution prohibits sectarianism although it specifies that the President be a Muslim; however, in the case of Alawis, religious affiliation facilitated access to influential and sensitive posts.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for the right of free movement "within the territories of the state unless restricted by a judicial decision or by the implementation of laws"; however, the Government limited freedom of movement in practice. Travel to Israel is illegal, and the Government restricted travel near the Golan Heights. The Government also denied human rights activists, leaders of opposition

groups, and other individuals permission to travel abroad, although government officials continued to deny that this practice occurred. Government authorities could prosecute any person found attempting to emigrate or to travel abroad illegally, any person who was deported from another country, or anyone who was suspected of having visited Israel.

Women over the age of 18 have the legal right to travel without the permission of male relatives; however, a husband or a father could file a request with the Ministry of Interior to prohibit his wife or daughter's departure from the country (*see* Section 5).

The Government maintained security checkpoints, primarily in military and other restricted areas. There were few police checkpoints on main roads or in populated areas. The security services used checkpoints to conduct warrantless searches for smuggled goods, weapons, narcotics, and subversive literature.

The Government has refused to recognize the citizenship of or grant identity documents to some persons of Kurdish descent. Lack of citizenship or identity documents restricted their travel to and from the country (*see* Section 5). èmigrés who did not complete mandatory military service could pay a fee to avoid conscription while visiting the country. During the year, some persons were imprisoned for refusing to pay the fee.

Citizens of Arab League countries were able to enter the country without a visa for a stay of up to 3 months, a period that is renewable by application to government authorities. Residency permits required proof of employment and a fixed address in the country.

The Constitution prohibits forced exile, and there were no reports of forced exile during the year.

The Government is not a party to either the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. The General Authority of Palestinian Arabs Refugees in Syria (GAPAR) is the government agency established to coordinate assistance and protection to refugees, over 400,000 of whom are Palestinians living in 10 official camps and assisted by the U.N. Relief and Works Agency for Palestine Refugees. The Government cooperated on a case-by-case basis with the office of the U.N. High Commissioner for Refugees (UNHCR). The Government continued to provide asylum seekers and refugees under UNHCR protection temporary permission to stay, but remained selective about extending protection to other refugees. Iraqis were granted temporary protection by the Government, and approximately 14,500 Iraqis registered with UNHCR. There are estimates that between 60,000 to a few hundred thousand Iraqis are living in the country.

Although the Government denied that it forcibly repatriated persons with valid claims to refugee status, UNHCR reported that some Iraqis were deported during the year. UNHCR has not taken part in any organized repatriations to Iraq since the withdrawal of UNCHR and other U.N. international staff from Iraq in 2003.

As of June, 415,000 Palestinian refugees were registered with the U.N. Relief and Works Agency (UNRWA) in the country. Unlike in previous years, Palestinian refugees with Syrian travel documents generally reported less difficulty with traveling in and out of the country. The Government restricted entry by Palestinians who were not resident in the country.

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

The Constitution requires that the President be elected by referendum, and the Parliament selects candidates at the discretion of the regional Ba'th party leadership. Although citizens vote for the President and Members of Parliament (M.P.s), in practice they did not have the right to change their government. In July 2000, Bashar al-Asad was confirmed as President by an unopposed referendum for a 7-year term. Citizens are required by law to vote; however, the percentage of women and minorities that voted is unknown.

The President appoints the vice presidents, the prime minister, deputy prime ministers, and the Cabinet, and he has the discretion to change these appointments at will. The President and his senior aides, particularly those in the military and security services, made most political and economic decisions, with a very limited degree of public accountability.

Political opposition to the President and the ruling Ba'th Party was vigorously suppressed. The Constitution provides that the Ba'th Party is the ruling party and is ensured a majority in all government and popular associations, such as workers' and women's groups. The Ba'th Party and eight other smaller political parties comprise the National Progressive Front (NPF), originally established in 1971. The NPF represented the only framework for legal political party participation for citizens; however, it remains dominated by the Ba'th Party and does not change the one-

party character of the political system. Besides the Ba'th, the other political parties of the NPF existed largely in name only and conformed strictly to Ba'th Party and government policies. In April 2003, the Arab Democratic Union joined the NPF, making it a nine-party organization.

The Ba'th Party dominated the 250-member Parliament, or People's Council. Parliamentarians could criticize policies and modify draft laws; however, the executive branch retained ultimate control over the legislative process. Elections for all 250 seats in the People's Council took place in March 2003. The election could not be characterized as free and fair because the majority of the seats in Parliament were reserved for members of the ruling NPF, ensuring a permanent absolute majority for the Ba'th Party as guaranteed by the Constitution. The Government allowed independent non-NPF candidates to run for just 83 seats, and it approved all candidates for 4-year terms.

In 2002, the Government sentenced independent M.P.s Ma'mun Humsi and Riad Seif to 5-year prison terms for calling on the Government to allow independent political parties to participate in government. At year's end, the men remained in prison.

There were reports of corruption in the legislative and executive branches of the Government.

There are no laws providing for public access to government information.

Women and minorities, with the exception of the Jewish population and stateless Kurds (*see* Section 5), participated in the political system without restriction. There were 2 female cabinet ministers, and 30 of the 250 M.P.s were women.

The Government did not provide figures on the ethnic or religious composition of Parliament or the Cabinet; however, there was one M.P. representing the Kurdish Progressive Democratic Party and one M.P. representing the Democratic Assyrian Organization.

In February, the Committee of the Defense of Democratic Liberties and Human Rights in Syria (CDF) attempted to petition President Asad to end the 40-year old Emergency Law and allow greater political freedoms. The attempt was unsuccessful.

In June, the Government banned all political activities by the 11 Syrian Kurdish parties.

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

The Government did not allow domestic human rights groups to exist legally. In the past, human rights groups operated legally but ultimately were banned by the Government. In August, the Government denied registration to the Arab Organization for Human Rights (AOHR); in November, the Government also denied registration to SWASIAH. CDF and HRAS were both denied registration in the past and operate illegally. HRAS continued to operate in a limited capacity (*see* Section 2.b.).

In April, CDF published its 2003 Human Rights Report, which was highly critical of the Government. The Government responded by arresting the president of the group, Aktham Naiissa (*see* Section 1.d.).

In 2002, the Government's sentenced 10 human rights activists to lengthy prison sentences, stifling the activities of human rights activists and organizations. All of the individuals remained in detention at year's end.

In recent years, the Government has met only twice with international human rights organizations: Human Rights Watch in 1995 and Amnesty International in 1997. As a matter of policy, the Government has denied to international human rights groups that it commits human rights abuses. The Government has also stated that it responds in writing to all inquiries from NGOs regarding human rights issues, including the cases of individual detainees and prisoners, through an interagency governmental committee attached to the Ministry of Social Affairs and Labor. However, NGOs have reported that they usually heard nothing from the Ministry. The Government usually responded to queries from human rights organizations and foreign embassies regarding specific cases by claiming that the prisoner in question violated national security laws.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equal rights and equal opportunity for all citizens, and discrimination based on race, sex, disability, language, or social status is prohibited; however, membership in the Ba'th Party or close familial relations with a prominent party member or powerful government official can help economic, social, or educational advancement. Party or government connections paved the way for entrance into better elementary and secondary schools, access to lucrative employment, and greater power within the Government, the military, and the security services. Certain prominent positions, such as that of provincial governor, were re-

served solely for Ba'th Party members. There was some governmental and societal discrimination against Jews (*see* Section 2.c.) and stateless Kurds.

Women.—Violence against women occurred, but there were no reliable statistics regarding the prevalence of domestic violence or sexual assault. The vast majority of cases were likely unreported, and victims generally were reluctant to seek assistance outside the family. Battered women have the legal right to seek redress in court, but few did so because of the social stigma attached to such action. The Syrian Women's Federation offered counseling services to battered wives to remedy individual family problems. The Syrian Family Planning Association also provided counseling in an effort to address this problem. Some private groups, including the Family Planning Association, organized seminars on violence against women, which were reported by government press. There were a few private, nonofficial, specifically designated shelters or safe havens for battered women who fled or sought to flee their husbands. In December, representatives of all government agencies were required to attend a gender issues training seminar with representatives of domestic women's NGOs.

In July, the Government instituted the Syrian Agency for Family Affairs, which reports directly to the Prime Minister and is responsible for reviewing the legal and social status of women and children, and networking with NGOs that provide services to women and children.

Rape is a felony; however, there are no laws against spousal rape. According to Article 489 of Criminal Law, "The punishment for a man who rapes woman (other than his wife) is at least 15 years in prison." However, if the individual who commits the crime agrees to marry the victim, he faces no punishment. The victim's family sometimes agrees to this arrangement to avoid the social scandal and stigma attached to such a crime. If the victim is too young for marriage then the rapist will receive a longer sentence. No statistics are kept on spousal rape because it is not a crime under the Criminal Law.

The law specifically provides for reduced sentences in "honor" crimes, which are violent assaults by a male against a female, usually a family member, with intent to kill for alleged sexual misconduct. Instances of honor crimes are rare and occurred primarily in rural areas in which Bedouin customs prevail. There were no cases reported during the year.

The law prohibits prostitution, and it was not a widespread problem.

The law prohibits sexual harassment and specifies different punishments depending on whether the victim is a minor or an adult. Sexual harassment was rarely reported.

The Constitution provides for equality between men and women and equal pay for equal work. Moreover, the Government has sought to overcome traditional discriminatory attitudes toward women and encouraged women's education by ensuring equal access to educational institutions, including universities. However, the Government has not changed personal status, retirement, or social security laws that discriminate against women. In addition, some secular laws discriminate against women. For example, under criminal law, if a man and woman separately commit the same criminal act of adultery, the woman's punishment is double that of the man's.

Christians, Muslims, and other religious groups are subject to their respective religious laws on personal status issues of marriage, divorce, and inheritance. For Muslims, personal status law is based on the Government's interpretation and application of Shari'a (Islamic law). This interpretation discriminates against Muslim women.

Husbands and wives can claim adultery as grounds for divorce; however, criminal law discriminates against women in this regard. A man can only be accused of adultery if his actions occur in the home which he shares with his wife; a woman can be accused of adultery regardless of venue. Also, any evidence a man presents when claiming adultery is accepted by a court of law; if a woman attempts to file for divorce based on adultery, her husband must admit to the crime or there must be a third witness to the act. There have been no reported cases where a woman successfully filed for divorce based on adultery.

A divorced woman might not be entitled to alimony in some cases, particularly if she gave up her right to it in order to persuade her husband to agree to the divorce.

Regardless of divorce or other circumstances, the law provides that a child is entitled to a minimum of 1,000 Syrian pounds ($20) per year of financial support. Courts calculate child alimony above this amount according to the income of the father. However, it is incumbent upon the mother requesting the alimony to prove the father's income, and the father is under no obligation to provide that information.

In addition, under the Personal Status Law modified in October 2003, a divorced mother loses the right to physical custody of her sons when they reach age of 13 and of her daughters at age 15. Guardianship, or control over exercise of the legal rights of the children, always remains with the paternal side of the family.

Inheritance for Muslims also is based on the Government's interpretation of Shari'a. Accordingly, Muslim women usually were granted half of the inheritance share of male heirs. However, male heirs must provide financial support to the female relatives who inherit less. If they do not, females have the right to sue.

Polygyny is legal but was practiced only by a small number of Muslim men.

A husband may request that his wife's travel abroad be prohibited (*see* Section 2.d.).

Women participated actively in public life and were represented in most professions, including the armed forces. Women were not impeded from owning or managing land or other real property. Women constituted approximately 13 percent of judges, 15 percent of lawyers, 57 percent of teachers below university level, and 20 percent of university professors.

Children.—The law emphasizes the need to protect children, and the Government organized seminars regarding the subject of child welfare. During the year, some of these seminars were organized in cooperation with the local UNICEF office.

The Government provided free, public education to citizen children from primary school through university. Education is compulsory for all children, male and female, between the ages of 6 and 12. According to the Syrian Women's Union, in 2001 approximately 46 percent of students through the secondary level were female. Nevertheless, societal pressure for early marriage and childbearing interfered with girls' educational progress, particularly in rural areas where the dropout rates for female students remained high.

Palestinians and other noncitizens can send their children to school. Stateless Kurds can also send their children to school but because they do not have any identification, their children cannot attend state universities.

Legal age for marriage is 18 unless parents consent to marriage for children under 18.

The Government provides free medical care for citizen children until the age of 18. There was no legal discrimination between boys and girls in education or in health care.

The law provides for severe penalties for those found guilty of the most serious abuses against children. Although there were cases of child abuse, there was no societal pattern of abuse against children.

Child prostitution and trafficking in children were rare; incidents that arose mainly involved destitute orphans.

In April, human rights organizations reported that five Kurds, ages 12–13, were detained in Hassakeh Province and beaten by prison guards for 3 days (*see* Section 1.b.). Human rights organizations also reported multiple cases where minors detained by the security services were placed in adult prisons. HRAS reported that a 14 year-old youth was detained in 2003 after returning from Saudi Arabia. At year's end, the youth was still in detention and awaiting trial before the SSSC on charges of belonging to the Muslim Brotherhood.

Trafficking in Persons.—There are no laws that specifically prohibit trafficking in persons; however, there were no reports that trafficking persons to, from, or within the country was a significant problem.

The Penal Code penalizes prostitution and trafficking of citizen women abroad.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities and seeks to integrate them into the public sector work force; however, implementation remained inconsistent. In December, the Government implemented regulations reserving 4 percent of government and public sector jobs for persons with disabilities (*see* Section 6.e.). There are no laws that mandate access to public buildings for persons with disabilities.

National/Racial/Ethnic Minorities.—The Government generally permitted national and ethnic minorities to conduct traditional, religious, and cultural activities; however, the Government's attitude toward the Kurdish minority remained a significant exception.

On March 12, security forces in Qamishli, in the northeastern Hassakeh province, opened fire on a crowd at a soccer match after clashes between Arab and Kurdish fans. The following day, crowds rioted in Qamishli and the security forces again opened fire on the crowd. Subsequently, riots and demonstrations spread throughout the towns and villages of the Hassakeh Province as well as to cities such as Damas-

cus and Aleppo. Thirty-eight persons were killed during the riots, and security forces detained over 1,000 persons (*see* Sections 1.a., 1.c., and 1.d.).

In June 2003, 200 Kurdish school children, ages 7–12 and accompanied by their teachers and parents, organized a demonstration in front of the local UNICEF office in Damascus to ask for a restoration of citizenship and more freedoms for the Kurdish population. Eight Kurdish activists were detained for participating in the demonstration.

Although the Government stopped the practice of stripping Kurds of their citizenship (some 120,000 lost their nationality under this program in the 1960s), it never restored the nationality to those who lost it earlier. As a result, those who lost their nationality, and their children, remained unable to obtain passports, or even identification cards and birth certificates. Without citizenship, these stateless Kurds, who, according to UNHCR estimates, number approximately 200,000, were unable to own land, were not permitted to practice as doctors or engineers, were denied government employment, were ineligible for admission to public hospitals and public universities, had no right to vote, and could not travel to and from the country. They also encountered difficulties in enrolling their children in school, and in some cases, in registering their marriages. In May, President Asad stated that the Government was committed to deal with the citizenship issue and that Kurdish citizens were an integral part of the national fabric. Despite these statements, there was no progress made toward these government commitments by year's end.

Although the Government contended that there was no discrimination against the Kurdish population, it placed limits on the use and teaching of the Kurdish language. It also restricted the publication of books and other materials written in Kurdish (*see* Section 2.a.), Kurdish cultural expression, and, at times, the celebration of Kurdish festivals. The Government tacitly accepted the importation and distribution of Kurdish language materials, particularly in the northeast region where most of the Kurds in the country resided. The Supreme State Security Court tried some members of the Kurdish community for expressing support for greater Kurdish autonomy or independence (*see* Section 2.a.).

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of association; however, in practice, workers were not free to establish unions independent of the Government. All unions must belong to the General Federation of Trade Unions (GFTU), which was dominated by the Ba'th Party and was a part of the State's bureaucratic structure. As an information channel between political decision-makers and workers, the GFTU transmitted instructions downward to the unions and workers while also conveying information to decision-makers about worker conditions and needs. The GFTU advised the Government on legislation, organized workers, and formulated rules for various member unions, controlling nearly all aspects of union activity. The GFTU president is a senior member of the Ba'th Party, and he and his deputy may attend cabinet meetings on economic affairs.

There were no reports of anti-union discrimination. Since the unions were part of the Government's bureaucratic structure, the law protects them from anti-union discrimination. The GFTU is affiliated with the Damascus-based International Confederation of Arab Trade Unions.

All lawyers wishing to practice law in court must belong to the Syrian Bar Association, whose leadership is dominated by Ba'th Party members. In February 2003, the Government expelled two lawyers from the Bar Association because of their human rights activities, which included defending high profile human rights cases and calling for an end to human rights abuses.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to form unions and to bargain collectively; however, these rights did not exist in practice. Government representatives were part of the bargaining process in the public sector. In the public sector, unions did not normally bargain collectively on wage issues, but there has been some evidence that union representatives participated with representatives of employers and the supervising ministry in establishing minimum wages, hours, and conditions of employment. This was a positive development insofar as it indicated respect for the ILO's "Social Partners" tripartite formula. Workers served on the boards of directors of public enterprises, and union representatives always were included on the boards.

The law provides for collective bargaining in the private sector, although past repression by the Government dissuaded most workers from exercising this right.

Following an increase in the salaries of public sector employees in 2003 and despite several meetings that were held between officials from the Ministry of Labor, GFTU, and representatives from the Federation of the Syrian Chambers of Commerce and Industry, private employers were not forced to increase salaries and

wages of their employees. However, similar meetings in 2004 succeeded in stipulating an increase in the salaries and wages of private sector employees, though the increase was symbolic.

Unions have the right to litigate disputes over work contracts and other workers' interests with employers and were able to ask for binding arbitration. In practice, labor and management representatives settled most disputes without resort to legal remedies or arbitration. Management had the right to request arbitration, but that right seldom was exercised. Arbitration occurred when a worker initiated a dispute over wages or severance pay. Arbitration authority was vested in the Ministry of Justice Administrative Petition Court. In practice, this court did little more than certify agreements and plays little role in actually arbitrating disputes, as such disputes did not occur with any regularity.

The law does not prohibit strikes; however, previous government crackdowns deterred workers from striking. During the year, there were no strikes.

There are no unions in the seven free trade zones (FTZs). Firms in the zones are exempt from the laws and regulations governing hiring and firing, although they must observe some provisions on health, safety, hours, and sick and annual leave. Ninety percent of the workers in the FTZs are citizens of the country.

c. Prohibition of Forced or Compulsory Labor.—There is no law prohibiting forced or compulsory labor, including that performed by children, and there were no reports of forced or compulsory labor by children, or forced labor involving foreign workers or domestic servants. Forced labor has been imposed as a punishment for some convicted prisoners.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Labor Law provides for the protection of children from exploitation in the workplace; however, the Government permitted child labor in some instances. The private sector minimum age for employment is 15 years for most types of nonagricultural labor, and 18 years for heavy work. Working hours for youths of legal age are set at 6 hours per day. Youths are not allowed to work during night shifts nor during the weekend or official holidays. In all cases, parental permission is required for children under the age of 16. The law prohibits children from working at night; however, the law applies only to children who work for a salary. Those who worked in family businesses and who technically were not paid a salary—a common phenomenon—did not fall under the law. Children under 15 are prohibited by law from working in mines, at petroleum sites, or in other dangerous fields. Children are not allowed to lift, carry, or drag heavy objects. The exploitation of children for begging purposes also is prohibited.

The Government claimed that the expansion of the private sector has increased child labor. Independent information and audits regarding government enforcement were not available again this year. The majority of children under age 16 who worked did so for their parents in the agricultural sector without remuneration. In a 2002 study, UNICEF found that 18 percent of children under the age of 18 participated in the labor force.

The Ministry of Labor and Social Affairs monitored employment conditions for persons under the age of 18, but it did not have enough inspectors to ensure compliance with the laws. The Ministry has the authority to specify the industries in which children 15 and 16 years of age may work. The Labor Inspection Department performed unannounced spot checks of employers on a daily basis to enforce the law; however, the scope of these checks was unknown. The law does not prohibit forced or compulsory labor by children; however, such practices were not known to occur.

e. Acceptable Conditions of Work.—The Minister of Labor and Social Affairs is responsible for enforcing minimum wage levels in the public and private sectors. In May, the Government increased public sector minimum wages by 20 percent to just over $100 per month, plus other compensation (i.e., meals, uniforms, and transportation). In July, the Government announced a 20 percent increase in private sector minimum wages to 3,500 Syrian pounds ($70) per month. These wages did not provide a decent standard of living for a worker and family. As a result, many workers in both the public and private sectors took additional jobs or were supported by their extended families.

In February, the Government changed from a 6 to a 5-day workweek for all public sector employees. According to official government statistics, the public sector employs 867,000 persons, or 16 percent of the workforce.

Rules and regulations severely limit the ability of an employer to dismiss employees without cause. Even if a person is absent from work without notice for a long period, the employer must follow a lengthy procedure of attempting to find and notify the person, including through newspaper notices, before he is able to take action

against the employee. Dismissed employees have the right of appeal to a committee of representatives from the union, management, the Ministry of Labor and Social Affairs, and the appropriate municipality. Such committees usually found in favor of the employee. Dismissed employees are entitled to 80 percent of salary benefits while the dispute is under consideration. No additional back wages are awarded should the employer be found at fault, nor are wage penalties imposed in cases in which the employer is not found at fault.

In December, President Asad signed the newly amended "Basic Labor Law." The Law stipulates that public sector entities must reserve 4 percent of government and public sector jobs for persons with disabilities (*see* Section 5). In addition, the law granted employees judicial recourse to appeal dismissals. A committee formed by the Minister of Justice, the Minister of Labor, and the Chief of the Central Commission for Inspection and Control may make a decision to dismiss an employee, stating the reasons behind the decision. This decision has to be ratified by the Prime Minister.

The law does not protect temporary workers who are not subject to regulations on minimum wages. Small private firms and businesses employed such workers to avoid the costs associated with hiring permanent employees. The law mandates safety in all sectors, and managers were expected to implement them fully. In practice, there was little enforcement without worker complaints, which occurred infrequently despite government efforts to post notices regarding safety rights and regulations. Large companies, such as oil field contractors, employed safety engineers.

Officials from the Ministries of Health and Labor are designated to inspect work sites for compliance with health and safety standards; however, such inspections appeared to be sporadic, apart from those conducted in hotels and other facilities that catered to foreigners. The enforcement of labor laws in rural areas were more lax than in urban areas, where inspectors were concentrated. Workers may lodge complaints about health and safety conditions, with special committees established to adjudicate such cases. Workers have the right to remove themselves from hazardous conditions without risking loss of employment.

The law provides protection for foreign workers who reside legally in the country, but not for illegal workers. There were no credible estimates available on the number of illegal workers in the country.

TUNISIA

Tunisia is a constitutional republic dominated by a single political party, the Democratic Constitutional Rally (RCD). Zine El Abidine Ben Ali has been the President since 1987. In the October 24 presidential and legislative elections, President Ben Ali ran against three opposition candidates and won 94.49 percent of the popular vote, with official turnout quoted as higher than 90 percent of registered voters, although there were indications that voter turnout figures were artificially inflated. By law, 20 percent of seats in the legislature (Chamber of Deputies) are reserved for opposition party candidates; as a result, 37 (out of 189) seats were divided between 5 of the 7 legal opposition parties in proportion to the number of votes they received. The RCD was allocated the remaining 152 seats. A coalition of three local independent nongovernmental organizations (NGOs) cited a lack of media access by opposition candidates during the campaign period and media bias in favor of the ruling party as serious problems. Opposition candidates and other observers cited voter intimidation and restrictions on disseminating campaign materials and organizing campaign events. The ruling party's domination of state institutions and political activity precluded credible and competitive electoral challenges from unsanctioned actors. A second legislative body, the Chamber of Advisors, was created in a 2002 referendum amending half the constitution, but has yet to be formed. President Ben Ali has said the chamber will open in the summer of 2005. The Constitution provides that the President appoint the Prime Minister, the Cabinet, and the 24 governors. The Constitution grants legislative power to the Chamber of Deputies and Chamber of Advisors; however, the President can also propose legislation. The Constitution provides for an independent judiciary; however, the executive branch and the President strongly influence judicial procedures, particularly in political cases.

The police share responsibility for internal security with the National Guard and other state security forces. The police operate in the capital and a few other cities. In outlying areas, their policing duties are shared with, or ceded to, the National Guard. The majority of internal security forces are under the control of the Minister

of Interior. The civilian authorities maintained effective control of all security forces. Members of the security forces committed numerous, serious human rights abuses and acted with impunity.

The country has a population of approximately 10 million; the Government maintained that approximately 80 percent of citizens are in the middle class. Fewer than 5 percent fall below the poverty line. The economy is export oriented, relatively diversified, and increasingly market based. During the year, the economy's growth rate was approximately 5 percent. Wages generally have kept pace with inflation.

The Government's human rights record remained poor, and the Government continued to commit serious abuses; however, the Government continued to demonstrate respect for the religious freedom of minorities, as well as the human rights of women and children. There were significant limitations on citizens' right to change their government. Members of the security forces tortured and physically abused prisoners and detainees. Security forces arbitrarily arrested and detained individuals. International observers were not allowed to inspect prisons, and lengthy pretrial and incommunicado detention remained a serious problem. The Government infringed on citizens' privacy rights. The Government continued to impose significant restrictions on freedom of speech and of the press. The Government restricted freedom of assembly and association. The Government remained intolerant of public criticism and used intimidation, criminal investigations, the court system, arbitrary arrests, residential restrictions, and travel controls (including denial of passports), to discourage criticism by human rights and opposition activists. Corruption was a problem.

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings by the Government or its agents; however, on February 27 the Tunisian Human Rights League (LTDH) reported that a 29 year old male citizen, Badreddine Rekeii, died in police custody between February 7 and 9. The police reportedly told Rekeii's family that he committed suicide; however, according to his family, his body showed "signs of violence" that led them to disbelieve the police report.

a. Disappearance.—There were no reports of politically motivated disappearances; however, state authorities sought to limit contact between prisoners and outside contacts, including family, by moving them frequently to other locations.

Habib Ellouz, a former leader of the banned Islamist party, An Nahdha (Arabic for "renaissance"), which the Government considers a terrorist organization, was transferred from the Borj El Amri prison in early in the year after he began a hunger strike. His family has said it has been unable to find out where he is being held (*see* Section 1.c.). A military tribunal gave Ellouz a life sentence in 1992 for his alleged involvement in a conspiracy to overthrow the Government.

b. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Penal Code prohibits such practices; however, security forces reportedly tortured detainees to elicit confessions and political prisoners to discourage resistance. The forms of torture included: electric shock; confinement to tiny, unlit cells; submersion of the head in water; beatings with hands, sticks, and police batons; suspension from cell doors resulting in loss of consciousness; cigarette burns; and food and sleep deprivation. Police allegedly beat naked, manacled prisoners while they were suspended from a rod. According to Amnesty International (AI), police and prison officials used sexual assault and threats of sexual assault against the wives of Islamist prisoners to extract information, to intimidate, and to punish.

Charges of torture in specific cases were difficult to prove because authorities often denied victims access to medical care until evidence of abuse disappeared. The Government maintained that it investigated all complaints of torture and mistreatment filed with the prosecutor's office, and noted that alleged victims sometimes accused police of torture without filing a complaint, which is a prerequisite for an investigation.

According to defense attorneys, local human rights groups, and AI, police routinely refused to register complaints of torture. In addition, judges dismissed complaints without investigation, and accepted as evidence confessions extracted through torture. The Government may open an administrative investigation of allegations of torture or mistreatment of prisoners without a formal complaint; however, it is unlikely in those cases to make the results public, or available to the lawyers of affected prisoners.

There were more reports of torture committed in pretrial detention centers than in prisons. Political prisoners and Islamists allegedly received harsher treatment during their arrests and confinement than common criminal prisoners.

AI reported in 2003 that individuals (who became known as the "Zarzis Group") were tortured during their pretrial detention. The Government stated that the individuals did not file complaints of mistreatment nor request medical examinations. The judge did not investigate the allegations of torture. The international NGO Reporters Without Borders reported that nine members of the group were convicted on terrorism related charges in April (*see* Section 1.e.).

Security forces regularly used violence against Islamists, activists, and dissidents. Three individuals, alleged members of the security forces, assaulted journalist Sihem Ben Sedrine on January 5 (*see* Section 2.a.). On October 11, former political prisoner Hamma Hammami, whose party urged the boycott of the October 24 presidential elections, reported being assaulted.

According to the International Association for the Support of Political Prisoners (AISPP), Nabil El Ouaer, whom a military tribunal sentenced to 15 years of prison in the early 1990s, was beaten by the head of Borj Erroumi prison and put in solitary confinement, where four other prisoners raped him in June. Based on its timing and location, human rights activists believed prison officials sanctioned the incident. El Ouaer conducted a hunger strike and filed a complaint through a lawyer. When the case received international attention, President Ben Ali ordered the Higher Commission on Human Rights and Basic Freedoms (a state appointed body) to conduct an inquiry into the case; however, the results were not publicized. El Ouaer's family told human rights activists that prison officials pressured him to withdraw his complaint.

On July 29, the LTDH reported that a police officer allegedly received only a suspended sentence of two years for raping an 8 year old girl in October 2000 in the town of Sousse. According to reports, the officer had not been suspended from work following the incident. Human rights activists described this as an example of the security forces' lack of accountability.

Prison conditions ranged from spartan to poor, and generally did not meet international standards. Foreign diplomatic observers who visited prisons described the conditions as "horrible." Overcrowding and limited medical care posed a significant threat to prisoners' health. Sources reported that 40 to 50 prisoners were typically confined to a single 194 square foot cell, and up to 140 prisoners shared a 323 square foot cell. Prisoners and former prisoners reported that inmates were forced to share a single water and toilet facility with more than 100 cellmates, which created serious sanitation problems.

On October 7, the LTDH released a 63 page report on the country's prisons entitled "The Walls of Silence," which stated that there were approximately 26,000 prisoners in 29 prisons and 7 juvenile detention centers. The report described a number of abuses, alleging that torture and humiliating ill treatment of prisoners were widespread within prisons.

Zouhair Yahiaoui, a formerly imprisoned journalist (*see* Section 2.a.), reported in 2003 that he had shared a cell that was 40 square meters (430 square feet) with 80 fellow prisoners, and that they only had access to water for 30 minutes a day. He conducted hunger strikes to protest his treatment.

After a commission of inquiry conducted an investigation of prison conditions in 2003, President Ben Ali decided to implement a number of reforms, many relating to improving medical care in prisons; however, the effects of this decision could not be determined. The Commission's report was not released to the public. An article from the magazine "Réalités" stated that there were 253 prisoners per 100,000 citizens, that prisoners were made to sleep on floors and under beds, and that some waited up to 7 months before moving from the floor to a bed shared with other prisoners.

On July 7, Human Rights Watch (HRW) released a report entitled "Long Term Solitary Confinement of Political Prisoners" that documented how as many as 40 political prisoners, mostly An Nahdha leaders, have been held in long term isolation in prisons around the country. HRW claimed that many of these prisoners have been in isolation for periods ranging from months to years, and that the isolation policy has violated the country's law.

Men, women, and children were held separately in prisons. Prison conditions for women were generally better than those for men. According to "Réalités," there were four juvenile "reformatory centers." Conditions for detainees and convicts were reportedly the same. Pretrial detainees generally were kept separate from convicts.

There were reports from former prisoners, the relatives of current prisoners, and NGOs that prison conditions and rules were harsher for political prisoners and Islamists. Former political prisoners said their records and identity cards were marked to identify them to guards for "special treatment." These prisoners apparently were moved frequently and, upon arrival at a new prison, received a brutal beating.

International and local NGOs reported that political prisoners regularly were moved among jails throughout the country, thereby making it more difficult for their families to deliver food to them and to discourage their supporters or the press from inquiring about them (*see* Section 1.b.). The National Council for Liberties in Tunisia (CNLT) reported that other inmates were instructed to stay away from political prisoners and were punished severely for making contact with them.

The Government did not permit international organizations or the media to inspect or monitor prison conditions. During the year, the Government conducted talks with the International Committee of the Red Cross (ICRC) to allow ICRC access to the country's prisons; however, no access had been granted by year's end.

d. Arbitrary Arrest or Detention.—The Constitution specifically prohibits arbitrary arrest and detention; however, these prohibitions were not always observed in practice.

The Ministry of Interior controls the majority of the security services. Within the ministry are several law enforcement organizations, including: the police, who have primary responsibility within the major cities; the National Guard, which has responsibility in smaller cities and the countryside; and state security forces tasked with monitoring groups and individuals the Government considers to be a dangerous threat, such as the media, Islamists, human rights activists, and opposition parties and leaders. The Ministry of Interior monitors the communications of those groups and individuals. There are a large number of plainclothes police throughout the country.

In general, law enforcement groups were disciplined, organized, and effective; however, there were episodes involving petty corruption, the solicitation of bribes by police at traffic stops, and police brutality against individuals whose behavior was deemed "provocative." Human rights activists reported that law enforcement organizations operated with impunity, and that the police committed attacks, sanctioned by high officials, on dissidents and oppositionists.

During the year, the Government stated that in 74 cases between 2000 and 2002, police and prison guards who committed "infringements against detainees" had received sentences ranging from an $85 (100 dinars) fine to a 10 year imprisonment.

On March 17, the Minister of Interior announced the creation of the Higher Institute of Internal Security Forces and Customs, a new oversight body for law enforcement officers in the Ministries of Interior and Customs. The organization's stated mission was to reinforce human rights and improve law enforcement; however, no information was available about its subsequent operations.

The law provides that the police must have a warrant to arrest a suspect, unless the crime committed is a felony or in progress; however, authorities sometimes ignored this requirement and arbitrary arrests and detentions occurred. The Penal Code permits the detention of suspects for up to 6 days prior to arraignment, during which the Government may hold suspects incommunicado. Arresting officers are required to inform detainees of their rights, immediately inform detainees' families of the arrest, and make a complete record of the times and dates of such notifications; however, those rules were sometimes ignored. Detainees were allowed access to family members when they were not being held incommunicado; however, the Government did not always facilitate the efforts of family members to identify the whereabouts of their detained relatives.

Detainees have the right to know the grounds of their arrest before questioning, and may request a medical examination. They do not have a right to legal representation during the pre arraignment detention. Attorneys, human rights monitors, and former detainees maintained that the authorities illegally extended detainment by falsifying arrest dates. Police reportedly extorted money from families of innocent detainees in exchange for dropping charges against them.

The law permits the release of accused persons on bail, which may be paid by a third party. Detainees have the right to be represented by counsel during arraignment. The Government provides legal representation for indigents. At arraignment, the examining magistrate may decide to release the accused or remand him to pretrial detention.

In cases involving crimes for which the sentence may exceed 5 years or that involve national security, pretrial detention may last an initial period of 6 months and may be extended by court order for two additional 4 month periods. For crimes in which the sentence may not exceed 5 years, the court may extend the initial 6 month pretrial detention by an additional 3 months only. During this pretrial stage, the court conducts an investigation, hears arguments, and accepts evidence and motions from both parties. Complaints of prolonged pretrial detention were common. Some defendants claimed that they were held in pretrial detention for years.

The Government denied detaining anyone for political crimes. The lack of public information on prisoners and detainees made it impossible to estimate how many political detainees there were. However, it is likely that the number of political detainees held without charge is low because criminal convictions of dissidents and Islamists are easy to secure under laws prohibiting membership in outlawed organizations, and "spreading false information aimed at disturbing of the public order."

Judges and the Government exercised their authority to release prisoners or suspend their sentences, often on conditional parole (*see* Section 1.e.). On November 3, the Government granted amnesty to prisoners in an annual ritual marking the anniversary of President Ben Ali's accession to power (*see* Section 3). The Government did not provide details on the numbers, types, or names of prisoners released. Estimates of the numbers released range from 26 to at least 80. According to AI, most of those released were members of the banned Islamist group An Nadha.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the executive branch and the President strongly influenced judicial decisions, particularly in political cases. The executive branch exercises an indirect authority over the judiciary through the appointment, assignment, tenure, and transfer of judges, which rendered the system susceptible to pressure in sensitive cases. In addition, the President is head of the Supreme Council of Judges. The law provides citizens legal recourse to an administrative tribunal to address grievances against government ministries; however, government officials rarely respected the tribunal's decisions, which were non binding. Throughout the year, the Government permitted observers from diplomatic missions, members of the European Parliament, and foreign journalists to monitor trials. The Government did not permit observers to attend sessions of military tribunals.

The civil court system is composed of a four tiered hierarchy. At the first level, there are 51 District Courts, in which a single judge hears each case. At the second level are the Courts of First Instance, which serve as the appellate courts for the District Courts, but also have original jurisdiction for more serious cases. There is a Court of First Instance in each region, and they are empowered to consider all commercial and civil cases. Each Court is composed of a three judge panel. At the third level are three Appeals Courts. The Court of Cassation or Supreme Court serves as the final court of appeals. The Supreme Court only considers arguments pertaining to points of law. The organization of the criminal court system is similar to that of the civil court system. In most cases, the presiding judge or panel of judges dominates a trial, and defense attorneys have little opportunity to participate substantively.

There are also military courts, which fall under the Ministry of Defense, and an administrative tribunal.

Trials in the regular courts of first instance and in the courts of appeal are open to the public. By law, the accused has the right to be present at trial, be represented by counsel, and question witnesses; however, judges do not always observe these rights in practice. The law permits the trial in absentia of fugitives from the law. Both the accused and the prosecutor may appeal decisions of the lower courts. In court, a woman's testimony is worth the same as a man's.

The Constitution provides that defendants are presumed innocent until proven guilty "following a procedure offering essential defense guarantees." However, that presumption was sometimes ignored in practice, especially in politically sensitive cases. Defendants may request a different judge if they believe the one assigned to them is not impartial; however, judges are not required to recuse themselves. The law allows judges to substitute community service for jail sentences of 6 months or less. There were no reports that this alternative was applied in political cases.

Although family and inheritance law is codified, civil law judges were known to apply Shari'a law in family cases (especially those involving child custody) if the two systems conflicted. For example, codified laws provided women with the legal right to custody over minor children; however, judges sometimes refused to grant women permission to leave the country with them, holding that Shari' a appoints the father as the head of the family who must grant children permission to travel. Some families avoided the application of Shari' a inheritance rules by executing sales contracts between parents and children to ensure that daughters received shares of property equal to that of sons.

Lengthy trial delays remained a problem (*see* Section 1.d.). Defendants do not have the right to a speedy trial, nor is there any limit to how much time a case can take. Defense lawyers claimed that judges sometimes refused to let them call witnesses on their clients' behalf or to question key government witnesses. Defense lawyers contended that the courts often failed to grant them adequate notice of trial dates, or to allow them time to prepare their cases. Some reported that judges re-

stricted access to evidence and court records, and in some cases, required all the lawyers working on a case to examine documents together on a single date in judges' chambers, without allowing them to copy relevant documents.

Lawyers and human rights organizations reported that courts routinely failed to investigate allegations of torture and mistreatment and accepted as evidence confessions extracted through torture (*see* Section 1.c.). They noted that the summary nature of court sessions sometimes prevented reasoned deliberation. They also stated that erratic court schedules and procedures were designed to deter observers of political trials.

On April 6, eight defendants, known informally as the "Zarzis Group," were convicted of terrorism related charges. Six sentences were later reduced on appeal from up to 26 years to 13 years. On April 16, a ninth member of the group received a 25 month sentence. Human rights groups criticized their trials, claiming the prosecution submitted very little evidence. The defendants, most in their late teens and early twenties, reportedly had searched the Internet for information about explosives and construction of a rocket launcher, and they had tried to contact an alleged member of Al Qaida in Europe. According to some human rights groups, the Zarzis members were arrested immediately after Government "cyber police" detected their illicit web surfing.

On November 4, Jalal Zoghlami, editor of the opposition magazine Kaws El Karama, and his brother Nejib Zoghlami were sentenced to 8 months in prison for damaging property during a "disturbance" in a Tunis café. According to HRW, the brothers claimed that police agents had staged the event.

Military tribunals have the authority try cases involving military personnel and civilians accused of national security crimes. A military tribunal consists of a civilian judge and four military deputy judges. Defendants may appeal the military tribunal's verdict to the civilian Supreme Court, which considers arguments on points of law as opposed to the facts of a case. AI has claimed that citizens charged under the tribunals have been denied basic rights during the judicial process.

On June 29, Salem Zirda, a civilian and former refugee, faced a military court trial for "providing services to a terrorist organization operating abroad." Mr. Zirda was accused of having made contact with members of the banned Islamist party An Nadha The court sentenced him to 7 years in prison.

The Government denied that it held any political prisoners, and there was no definitive information regarding the number of political prisoners. Nevertheless, early in the year, the AISPP published a list of 542 names of individuals whom it considered political prisoners. The AISPP stated that impediments to gathering information about prisoners made it very likely that the total number of political prisoners was higher. Nearly all of these prisoners were Islamists, but very few were convicted for acts of violence. Most of those who have been identified by international human rights groups as political prisoners or prisoners of conscience were arrested for violating laws that prohibit membership in illegal organizations, and spreading false information aimed at undermining public order. Many were arrested for disseminating information produced by organizations such as An Nahdha. Former political prisoners said their identity papers were marked in a way that resulted in their receiving harsher treatment (*see* Section 1.c.).

The Government released approximately 80 prisoners in early November. Two of the released prisoners were former An Nahdha leaders Ali Laaridh and Zyed Daoulatli. The releases were part of the annual amnesty commemorating President Ben Ali's 1987 accession; however, observers noted that most of the released prisoners had served two thirds of their sentences, which is the point when most convicts are granted parole.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions "except in exceptional cases defined by law"; however, the Government generally did not respect these prohibitions in practice. Police sometimes ignored the requirement to have a warrant before conducting searches if authorities considered state security to be involved.

On June 14, state security forces reportedly attempted to search the office of Saida Akremi, a lawyer and the Secretary General of the AISPP. According to witnesses, Akremi was able to prevent the search from taking place, since the security forces reportedly did not have a search warrant.

On September 3, the opposition newspaper Al Mawkef reported that the house of journalist Slim Boukhedhir was broken into after he asked a question at a press conference implying that relatives of the President had pressured the judiciary to influence a legal case. Human rights activists speculated that security forces committed the break in (*see* Section 2.a.).

Authorities may invoke state security to justify telephone surveillance. There were numerous reports by NGOs, the news media, and diplomatic representatives that the Government intercepted faxes and emails. The law does not explicitly authorize these activities, but the Government stated that the Code of Criminal Procedure implicitly gives investigating magistrates such authority. Many political activists experienced frequent and sometimes extended interruptions of home and business telephone and fax service. Human rights activists accused the Government of using the Postal Code, with its broad but undefined prohibition against mail that threatens the public order, to interfere with their correspondence and interrupt the delivery of foreign publications. Security forces routinely monitored the activities, telephone, and Internet exchanges of opposition, Islamist, and human rights activists, as well as journalists, and also placed some under surveillance (*see* Section 2.a.).

Human rights activists claimed that the Government subjected family members of Islamist activists and human rights activists to arbitrary arrest, reportedly using charges of "association with criminal elements" to punish family members for crimes allegedly committed by the activists. Family members were reportedly denied jobs, business licenses, and the right to travel due to their relatives' activism. They also alleged that relatives of Islamist activists, who were in jail or living abroad, were subjected to police surveillance and mandatory visits to police stations for questioning about their activist relatives. The Government maintained that the non activist relatives were themselves members or associates of the An Nahdha movement, and therefore were subject to legitimate laws prohibiting membership in or association with that organization.

On April 3, two Islamist former political prisoners, Abdellatif Makki and Jalel Ayes, suspended their 2 month hunger strike protesting their December 2003 dismissal from El Manar University. They had been banned from attending the university after their release from prison. Their case received the attention of local and international human rights NGOs; however, they were not reinstated.

According to human rights lawyer Radhia Nasraoui, the Government reportedly was no longer conducting obtrusive surveillance of her, her family, and her clients.

There were no indications that the Government had reissued any of the more than 10,000 national identity cards (confiscated in 2003) of former prisoners convicted of An Nahdha membership, or of relatives of An Nahdha members and their supporters. Confiscation of an identity card makes nearly every aspect of civil and administrative life difficult. An individual must have an identity card to receive healthcare, sign a lease, buy or drive a car, access bank accounts and pensions, and even to join a sports club. Police may stop anyone at any time and ask for their identity card. If individuals are unable to produce their cards, police may detain them until their identity can be established by a central fingerprint database.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press "exercised within the conditions defined by the law"; however, the Government generally did not respect these rights in practice. It limited press freedom and intimidated journalists, editors, and publishers into practicing self censorship. Security forces closely monitored press activity.

There were a number of limits on freedom of speech. In particular, the Government did not tolerate criticism of its policies or officials in the mainstream press, and self censorship in public over these issues was common throughout all levels of society.

On July 24, the Tunisian Chamber of Deputies adopted a law that criminalized the unauthorized publication of any other individual's personal information. The Government cited this as an example of improvement in the field of human rights, namely, citizens' right to privacy; however, journalists expressed concern that in practice the law would actually be used to limit freedom of speech and the press, particularly in politically sensitive cases. There were no reports of this law being enforced.

The law prohibits citizens from discussing national politics on foreign radio or television channels during the 2 weeks prior to national elections; however, there were no cases in which the law was invoked during the year.

Security forces often questioned citizens seen talking with foreign visitors or residents, particularly visiting international human rights monitors and journalists.

The Government stated there were 245 newspapers and magazines in the country, the "great majority" of which are "privately owned and freely decide on their own editorial line." It also noted "the press as a whole enjoys a great deal of indirect assistance in the form of customs exemptions for all materials involved in printing." However, of the eight mainstream dailies, two are government owned, two are owned by the ruling party, and two, although nominally private, take editorial direc-

tion from senior government officials. All media are subject to significant governmental pressure over subject matter. There were three opposition party newspapers, which had small circulations but exercised editorial independence from the Government. Nevertheless, two of them, Ettariq El Jadid and Al Wahda, received Government subsidies under a law that provided government financing to papers representing opposition parties with seats in Parliament. The third, Al Mawqif, did not receive the subsidy since its party was not represented in Parliament.

Foreign publications that included articles critical of the country were generally not available for sale, although in some cases they were distributed after a few days' delay. The Government prevented local journalists from broadcasting reports on pan Arab satellite channels during the Arab ministerial meetings in January and March. Government regulations required foreign correspondents to obtain written approval before videotaping any public area.

The Government tightly controlled broadcast media. It owned and operated the two television stations and all but one of the country's radio stations. Broadcast news reports were confined to international and uncontroversial national issues. On the other hand, the Government did not restrict possession of satellite dishes, which reportedly a majority of households used to gain access to foreign news channels. The country's sole private radio station, Radio Mosaique, continued to make extensive independent social commentary; however, its political reporting was similar to that of state owned broadcast media.

The Government exercised tight control over the creation of new print and broadcast media organizations. It did not allow the creation of any new newspaper during the year, but did authorize the creation of the country's first independent television station, which reportedly will begin broadcasting in February 2005.

The Government was sensitive about local journalists who contributed to negative reporting about the country in the international press. On January 5, three men, alleged to be plainclothes members of the security forces, assaulted journalist Sihem Ben Sedrine. One struck her repeatedly in the face and chest. The assault coincided with an increase in Ben Sedrine's contacts with western media, NGOs, and governments, which observers believed to be the reason for the assault.

On January 13, security forces prevented Sihem Ben Sedrine, a journalist, publisher, and one of the founders of the CNLT, from registering her newspaper Kalima, whose website remains blocked within the country (*see* Section 2.b.) Ms. Ben Sedrine has said this was her third attempt to register the publication.

Members of the security forces regularly questioned journalists regarding press conferences and other public functions hosted by foreigners that the journalists attended.

On May 3, the Tunisian Journalism Association (AJT) published a list of 11 journalists who had not received permission, as requested, to publish new independent newspapers. The Government did not process applications for independent television and radio licenses, and applicants complained of a lack of transparency about the application process.

Harassment of journalists by the Government was common, and in rare cases, security forces used violence against them. At an August press conference, two men, alleged to be members of the security forces, reportedly assaulted journalist Slim Boukhedhir after he asked a question implying that relatives of the President had pressured the judiciary to influence a legal case. Subsequent to the incident, Boukhedhir reportedly received numerous threatening phone calls and his house was broken into (*see* Section 1.f.).

The Government withheld press credentials from, and delayed granting passports to, journalists with whom it was displeased, particularly those associated with the opposition. For example, Al Mowqif senior editor Mohamed Fourati was denied a passport for 8 months. On March 24, the Government accused Fourati in court of belonging to an unauthorized organization based on a series of articles that he published in Kalima, although the Government subsequently dropped the charges. On the other hand, Internet journalist and former political prisoner Zouhair Yahyaoui (conditionally released from prison in November 2003) was able to get a passport, despite the fact that he remained vocally critical of the Government, and resumed his work editing an online pro democracy magazine that the Government blocked.

Unlike in previous years, there were no new reports of journalists being arrested. In March, a Court of Appeals confirmed the November 2003 conviction of Kalima editor and dissident journalist Neziha Rejiba (known as Om Zied). Rejiba was convicted of an arbitrarily enforced currency exchange restriction and received an 8 month suspended sentence and a $950 (1,200 dinars) fine. Observers believed that she was charged to punish her for the editorial line of the online journal.

On September 10, Abdullah Zouari, a journalist who once worked for Al Fajr, the weekly newspaper of the An Nahdha party, was released from prison. He conducted

a hunger strike in early this year to protest the fact that his family was prohibited from visiting him. Zouari was convicted in August 2003 for violating the terms of his administrative control when he accompanied an HRW foreign worker to visit families of Islamist prisoners. Hamadi Jebali, a former editor of Al Fajr, remained in prison to serve his 6 year sentence for insurrection and "membership in an illegal organization."

News media are subject to direct and indirect government control over content. However, the primary mechanisms that the Government used to censor publications were indirect. For example, The Press Code requires all newspapers to submit copies of each edition to the Government prior to distribution. This pro forma process, known as "dépot legal," resulted in self censorship among editors and journalists. Unlike the mainstream independent press, the Government required some opposition papers to await explicit approval of each edition before beginning its distribution. Even when the Government formally approved editions of opposition papers, it sometimes prevented their distribution. The staff of Al Mawqif reported that such was the case on several occasions during the year.

On March 9, 28 journalists employed by the government owned daily newspapers, La Presse and As Sahafa, signed a letter to government officials decrying an increase in censorship and pressure from "the hierarchy." They specifically cited pressure to refrain from reporting on sensitive national issues such as the 2003 Tunis floods and a teacher's strike, as well as on international issues such as the number of coalition forces killed in Iraq and Israeli actions in Palestine. Thirteen later rescinded their signatures, allegedly due to pressure from their editors. On May 31, representatives of the Ministry of Interior convoked Rachid Khachana, the editor of Al Mawqif, to advise him to desist from publishing statements by "unrecognized entities" and from "criticizing the ruling party."

According to media editors, senior government officials routinely called news directors and editors to inform them which issues were taboo, and in some cases, to take issue with reports they had published or broadcast. The Tunisian Agency for External Communications (ATCE) enforced this policy and other informal censorship mechanisms by selectively withholding government advertising funds from newspapers or magazines that published articles that the Government deemed offensive. In May, Réalités lost all government funded advertising for two weeks after the publication of an editorial on freedom of the press in the country. In addition, private companies reportedly were consistently unwilling to advertise in newspapers no longer receiving government advertisements for fear of appearing to side with the media organization being punished.

The media practiced a high degree of self censorship. Journalists in the mainstream press regularly refrained from investigative reporting on national issues. The tiny opposition press constituted the only newspapers to report regularly on controversial national issues.

Book publishing was subject to the pro forma approval of the Government, and the Government imposed the same restrictions on books as it did on other media.

The Government blocked access to a number of Internet websites, including nearly all sites belonging to domestic human rights, opposition and Islamist groups, as well as many pornographic websites. However, in April, the Government allowed access to several foreign websites that previously had been blocked, including Hotmail, Al Jazeera, AI, and the French daily newspaper Liberation. Some foreign human rights websites remained blocked, including the website of the NGO Reporters Without Borders.

On May 3, the LTDH published the report, "Media Under Watch," that criticized the state of press freedom and discussed the means by which the Government monitored and blocked Internet usage. In July, a report on "cyber freedom," published by the Arab Information Network on Human Rights, ranked the country last among 11 Arab countries.

The Government limited academic freedom and sought to foster a culture of self censorship in universities. The Government closely monitored administrators, teachers, and students to identify Islamic extremists. Police on university campuses, both in uniform and plainclothes, discouraged students from openly expressing dissent. Academic publications were subject to the pro forma process of submission to the Government before publication, and university libraries did not purchase foreign books or subscribe to foreign magazines deemed critical of the Government. Tight government control over academic research funds caused university administrators to not apply for grants on research topics (such as one on "voting methods") that they believed the Government would find objectionable. Professors avoided teaching classes on subjects considered sensitive, such as legal courses on political systems or classes on civil liberties.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. Groups that wish to hold a public meeting, rally, or march must apply for and obtain a permit from the Ministry of Interior no later than 3 days before the proposed event, and they must submit a list of participants. According to diplomatic representatives, the authorities routinely approved such permits for groups that supported government positions, but consistently refused permission for groups that expressed dissenting views. In previous years, NGO leaders have reported difficulty in renting space to hold large meetings. They maintained that police pressured hotel and hall managers to prevent them from renting meeting space to the NGOs.

In March, according to human rights activists, the deputy governor of Gafsa refused to allow regional leaders of an opposition party to meet. The meeting's organizers were forced to cancel the event at the last minute.

According to opposition media, regional authorities pressured a Tozeur businessman to rescind his offer to rent a meeting hall to an opposition party in May, which he did. Other hotel managers and businessmen denied that there is a specific ban on renting space to opposition groups; however, they said they cooperated with the Ministry of Interior and accommodated its requests when possible.

On November 28, security forces prevented human rights activists from attending a meeting of the LTDH, in the town of Kairouan, by imposing road checkpoints and blocking entrance to the LTDH headquarters. On December 11, police surrounded the headquarters of the CNLT and blocked attendance at the organization's general assembly.

The Government used large numbers of police and other forces tasked with state security to monitor, control, and sometimes disrupt demonstrations. According to diplomatic representatives, the Government broke up several unsanctioned demonstrations during the year and, in many incidents, police outnumbered demonstrators. In general, demonstrators and security forces did not resort to violence; however, there were some exceptions, such as scuffles ensuing from demonstrators' attempts to cross police lines or demonstrators not dispersing when ordered by police. Security forces were prepared to respond vigorously to civil disorder.

On April 18, police convoked several NGO leaders who had organized a peaceful demonstration to protest the killing of a Palestinian leader. Some were asked to sign a written document promising not to participate in future demonstrations.

On April 23, college students in the northern town of Bizerte conducted a demonstration "in solidarity with Iraq and Palestine" that police violently dispersed. There were no reports of injuries or deaths. The official government news agency announced that the demonstration served no purpose since the Government position and that of the demonstrators were identical.

The Constitution provides for freedom of association; however, the Government generally did not respect this right in practice, particularly for groups deemed critical of its policies. The law requires that new NGOs submit an application to the Government in order to gain recognition, and to operate legally. According to the law, an NGO that has filed an application to register may operate freely, while the Government processes its application. If the Government does not reject the application within 90 days, the NGO is automatically registered.

The Government routinely and arbitrarily blocked the registration of new independent NGOs by refusing to provide receipts for their registration applications. Without such a receipt, NGOs were unable to counter the Government's assertions that they had not applied to register, and therefore were not allowed to operate. In such cases, NGOs could be shut down, their property seized, and their members prosecuted for "membership in an illegal organization."

On January 13, journalist and editor Sihem Ben Sedrine was similarly rebuffed when she attempted to register her online magazine, Kalima, despite the fact a member of the Chamber of Deputies accompanied her (*see* Section 2.a.).

On March 22, the Government solicited the application of the AISPP, which its president, Mohamed Nouri, duly submitted. When the Government gave him a receipt, many observers assumed that it would approve the NGO's application, since in all related cases in recent years it has refused to provide a receipt for the applications of human rights NGOs. Nevertheless, in June, the Government formally rejected its application without providing the grounds for refusal (*see* Section 4).

On April 26, the recently formed Tunisian Green Party submitted an application to register itself with the Government. After the party did not hear from the Government for 3 months, its president, Abdelkader Zitouni, believed that the application had been approved according to the law. Nevertheless, on July 26, the Ministry of Interior informed him that it had not received an official request for registration. Since Zitouni had not received a receipt, he was unable to prove to the Government's satisfaction that he had submitted an application (*see* Section 3).

On June 8, the human rights activist Radhia Nasraoui of the Tunisian Association for the Struggle against Torture (ALTT), accompanied by the NGO's vice president, secretary general, and treasurer, attempted to submit an application to register their NGO. According to the ALTT, after government officials refused to accept their applications, the group conducted a 6 hour sit in until police expelled them and supporters from the premises (*see* Section 1.f.).

c. Freedom of Religion.—The Constitution provides for the freedom of religion that does not disturb public order, and the Government generally respected this right in practice, although there were some restrictions and abuses. The Government did not permit the establishment of political parties based on religion, prohibited proselytizing, and restricted the wearing of the hijab, or headscarf. Islam is the state religion, and the Constitution stipulates that the President must be a Muslim. The Government controlled and subsidized mosques, and also subsidized some synagogues. The Government paid the salaries of both Muslim prayer leaders and the country's Grand Rabbi.

The Government recognizes all Christian and Jewish religious organizations that were established before independence in 1956. Although it permits other Christian denominations to operate, the Government has only formally recognized the Catholic Church. The Government did not permit Christian groups to establish new churches. Authorities can deport foreigners suspected of proselytizing and not permit them to return; however, there were reports that the Government preferred to not renew the visas of suspected missionaries or to pressure their employers to not extend their contracts, rather than to deport them. There were no reported cases of official action against persons suspected of proselytizing during the year.

Since 1999, the Government has not permitted registration of a Jewish religious organization in Djerba; however, the group has been permitted to operate, and it performed religious activities and charitable work without restriction.

The Ministry of Religious Affairs hosted a Colloquium December 8–9 entitled "Dialogue of the Abrahamic Faiths for Tolerance and Peace," aimed at fostering mutual understanding. Representatives of the Muslim, Christian, and Jewish faiths participated.

Islamic religious education was mandatory in public schools; however, the religious curriculum for secondary school students also included histories of Judaism and Christianity.

The Government did not permit the establishment of political parties based on religion, and it used this prohibition to continue to outlaw the Islamist party An Nahdha, and to prosecute suspected members for "membership in an illegal organization" (*see* Section 1.e.). In previous years, the Government revoked the identity cards of an estimated 10,000 to 15,000 Islamists and fundamentalists, which, among other consequences, prevented them from being legally employed (*see* Section 1.f.). Many of these individuals reportedly remained without identity cards throughout the year. The Government continued to maintain tight surveillance over Islamists.

The law provides that only persons appointed by the Government may lead activities in mosques, such as prayer or theological discussion groups. The Government required that mosques remain closed, except during prayer times and other authorized religious ceremonies, such as marriages or funerals. According to human rights lawyers, the Government regularly questioned individuals observed praying frequently in mosques. Authorities instructed imams to espouse governmental social and economic programs during prayer times in mosques.

The Government sought to suppress certain outward signs of citizens' religious practice. For example, regulations forbade the wearing of the hijab in government offices, and there were reports of police requiring women to remove their hijab in offices, on the street, and at certain public gatherings. In several cases, school officials took disciplinary action to punish and deter hijab use, and there were reports that school and government officials detained women who wore the hijab, and attempted to make them sign written oaths renouncing it. The Government characterized the hijab as a "garment of foreign origin having a partisan connotation," and prohibited the hijab in public institutions in order to "observe impartiality required of officials in their professional relations with others." However, diplomatic representatives observed a few government employees wearing the hijab in their offices. There were reports that police sometimes detained men with "Islamic" style beards, harassed them, and compelled them to shave off their beards.

Religious publications are subject to the same restrictions on freedom of speech and the press as secular publications. Christian groups were generally allowed to distribute religious documents in English but not in Arabic. Moreover, only sanctioned religious groups were allowed to distribute religious documents. In the Gov-

ernment's view, distribution by other groups constituted an illegal "threat to public order" (*see* Section 2.a.).

Christians and Jews living in the country, including foreigners, constituted less than 1 percent of the population. The Government permitted Christians and Jews, who did not proselytize, to worship as they wished, and it allowed Jewish communities to operate private religious schools. Jewish children on the island of Djerba were permitted to divide their academic day between secular public schools and private religious schools. The Government also encouraged Jewish expatriates to return for the annual pilgrimage to the historic El Ghriba Synagogue on the island.

The Government took a wide range of security measures to protect synagogues, particularly during Jewish holidays, and Jewish community leaders said that the level of protection that the Government provided them increased during the year. Government officials and private citizens alike often cited the country's tradition of religious tolerance as one of its strengths.

While Baha'is do not consider themselves Muslims, the Government regarded the Baha'i faith as a heretical sect of Islam, and permitted its adherents to only practice their faith in private. Ministry of Interior officials periodically met with prominent citizens of the Baha'i faith to discuss their activities, and Baha'i leaders asserted that, as a result, their community's relationship with the Government improved during the year.

Muslims who converted to another religion faced social ostracism. There were reports that the Government did not allow married couples to register the birth of their children, or receive birth certificates if the mother was Christian and the father was Muslim, and if the parents tried to give their children non Muslim names.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, Repatriation, and Exile.—The Constitution provides for these rights, and the Government generally respected them in practice; however, the Government refused to issue, renew, amend, or accept passports of some dissidents, Islamists, and their relatives. The Government also may impose a 5 year period of "administrative controls" at sentencing on certain former prisoners that constituted a type of internal exile.

The law provides that the courts can cancel passports and contains broad provisions that both permit passport seizure on national security grounds, and deny citizens the right either to present their case against seizure or to appeal the judges' decision. The Ministry of Interior is required to submit requests to seize or withhold a citizen's passport through the public prosecutor to the courts; however, the Ministry of Interior routinely bypassed the public prosecutor with impunity. The public prosecutor deferred to the Ministry of Interior on such requests.

There were numerous reports of citizens experiencing difficulty applying for or renewing their passports. Many applicants accused the Government of not acting on their applications solely on the basis of their opposition to the ruling party or Government policies. Mokhtar Boubaker, a labor leader and former chief editor of the General Union of Tunisian Workers (UGTT) weekly, Esch Chaab, reported that the Government has refused him a passport since 2001. He said the Ministry of Interior refused to tell him the reason for not processing his renewal application. In another case, former Islamist leader Dr. Mohamed Sedki Labidi allegedly has been deprived of his passport for the last decade without a court decision. In February, the Government allegedly refused to issue a passport for the 8 month old daughter of a former political prisoner, now living in Europe.

The Constitution prohibits forced exile; however, the Penal Code provides for the imposition of a form of internal exile (which the Government calls "administrative control") on convicts for up to five years. Administrative control measures, which take effect upon a convict's release from prison, are similar to parole restrictions, except that they may be applied to prisoners even after they have completed their sentences. The Government assigns those individuals a place to live, which may be anywhere in the country, and they are required to stay "in the area of their residence." They also may be required to report to a police station several times each day, and at times that are determined only the previous evening. At the police station, they reportedly may be forced to wait hours before they are allowed to sign in, which made employment impossible and childcare difficult. Numerous Islamists released from prison in recent years have been subjected to such requirements.

On September 10, the Government released former journalist Abdullah Zouari, who was originally sentenced to 9 months in prison in August 2003 for violating the terms of the administrative control measures imposed on him (*see* Section 2.a.).

By law, administrative control measures may only be imposed at sentencing; however, a former high school teacher, Nouri Chniti, claimed that, although his sen-

tence did not include administrative control, he has been subject to extra judicial administrative control measures since 1991, when he received a suspended sentence for membership in An Nadha.

Some political opponents in self imposed exile abroad were prevented from obtaining or renewing their passports in order to return to the country.

The Constitution provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The country is a party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and the Convention Governing the Specific Aspects of Refugee Problems in Africa. However, in practice, the Government has instituted no measures to protect against refoulement, the return of persons to a country where they feared persecution, and has not granted refugee status and asylum. The Government cooperated to a certain degree with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government has not officially provided temporary protection to foreign nationals who did not qualify as refugees under the 1951 Convention and 1967 Protocol.

Section 3. Political Rights: Citizens' Right to Change Their Government

The Constitution provides that citizens shall directly elect the President and members of the Chamber of Deputies for 5 year terms; however, there were significant limitations on citizens' right to change their government. Moreover, irregularities that called into question the legitimacy of elections were routine. In the October 24 national elections, President Ben Ali faced three candidates, and received 94.49 percent of the popular vote to secure a fourth term in office. The third opposition candidate, Mohamed Halouani of the Et Tajdid party, cited a number of government restrictions and other irregularities to explain why he received less that 1 percent of the official vote count. According to official election returns, more than 90 percent of registered voters went to the polls; however, independent NGOs estimated that the actual turnout was closer to 30 percent.

The elections were characterized by notable irregularities, such as voter intimidation. A coalition of three local independent NGOs (LTDH, CNLT, and the Tunisian Association of Democratic Women) cited a lack of media access by opposition candidates during the campaign period, and media bias in favor of the ruling party as serious problems. Opposition candidates and other observers also cited voter intimidation, restrictions on disseminating campaign materials and organizing campaign events, the ruling party's domination of state institutions, and political activity which precluded credible and competitive electoral challenges from unsanctioned actors.

The Electoral Code significantly limits the number of individuals eligible to run for president. A candidate must be Muslim, and must receive the endorsement of 30 sitting deputies or municipal council presidents to be eligible to run.

On August 31, the Government formed a body called the National Election Observatory, whose members were to include "national figures known for their competence, experience, and independence." The Observatory was tasked with monitoring all stages of the October 24 elections, and was to report directly to President Ben Ali. However, independent human rights activists complained that the real purpose of the Observatory was to co opt foreign observers, and reduce pressure to allow independent groups to monitor both the elections and their preparation.

The ruling party has maintained power continuously since the country gained its independence in 1956. It dominates the Cabinet, the Chamber of Deputies, and regional and local governments. The President appoints the Prime Minister, the Cabinet, and the 24 governors. The Government and the party are closely integrated, and current and former senior government officials constitute the top ranks of the RCD. The President of the Republic is also the president of the party, and the party's vice president and secretary general each hold the rank of minister. All the members of the RCD politburo hold ministerial rank based on their current or former government service.

RCD membership conferred tangible advantages. For example, there were widespread reports that children of RCD members were much more likely to receive scholarships and housing preferences at school. RCD members also were much more likely to receive small business permits and waivers on zoning restrictions.

To mitigate the advantages wielded by the ruling party, the Electoral Code reserves 20 percent of seats in the Chamber of Deputies (37 of 189) for the 7 officially recognized opposition parties, and distributes them on a proportional basis to those parties that won at least a single directly elected district seat. Five of the opposition parties gained seats under that provision in the October 24 elections. The RCD continued to hold the remaining 152 seats. Since opposition parties have been unsuc-

cessful in their attempts to raise money from private contributors, the Government partially funded their campaigns. For the elections, each party represented in the Chamber of Deputies received a public subsidy of approximately $42,000 (60,000 dinars), plus an additional payment of $3,500 (5,000 dinars) per deputy. Opposition newspapers had difficulty finding sources of advertising revenue, so the Government gave each one up to $105,000 (120,000 dinars). The Government provided 3 minutes of airtime for a representative of each legislative list, and 5 minutes of airtime for each presidential candidate, in addition to limited coverage of political party meetings following the main nightly news program; however, there were reports that the statements of opposition representative were not shown on TV at all. Opposition parties were allocated equal space on bulletin boards placed in most neighborhoods for the elections.

By law, the Government does not permit the establishment of political parties on the basis of religion, language, race, or gender. The government has used the prohibition to continue to outlaw the Islamist An Nahdha party and to prosecute suspected members for "membership in an illegal organization" (*see* Sections 2.b. and 2.c.). The Government refused to recognize the creation of the Tunisian Green Party, which applied for registration with the Government on April 26 (*see* Section 2.b.).

Prior to the October 24 elections, several opposition leaders protested the country's 2002 referendum vote, which amended half of the Constitution, questioning the legitimacy of the amendments, including the provision that allowed President Ben Ali to run for an additional term of office. Others noted the inconsistent application of the amendments, such as the Government's failure to create the new upper house of the country's legislature, the Chamber of Advisors, even 2 years after the referendum. The Government stated that, "the spirit and import of the reforms cannot come down to some of its provisions, given their wide range and diversity." For example, it cited laudable provisions that in theory increased the power of the judiciary and legislative branch relative to the executive.

Corruption in the Government existed. On March 17, the Minister of Interior announced the creation of the "Higher Institute of Security Forces and Customs," tasked not only with "reinforcing human rights and improving law enforcement," but also reducing corruption. There were no public reports of the organization's subsequent activities. There also were episodes involving petty corruption with the security forces, in particular the solicitation of bribes by police at traffic stops (*see* Section 1.d.).

On a number of occasions, President Ben Ali expressed the desire to increase the level of representation of women in the Government to 25 percent. In April, he appointed Tunisia's first female governor. There were 43 women in the 189 seat legislature. Two of the 25 ministers, and 5 of the 20 secretaries of state were women. More than one fifth of municipal council members were women. Three women served as presidents of chambers on the Supreme Court. Two women served on the 15 member Higher Council of the Magistracy. The September 7 by elections in a governorate on the outskirts of Tunis were one of the first elections held in the country without gender segregation at polling stations.

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

Domestic and international groups were able to investigate and publish their findings on human rights cases; however, the Government sought to discourage investigations of human rights abuses. According to the Government, there were more than 8,000 NGOs in the country. The vast majority was devoted exclusively to social and economic development issues. There were approximately one dozen domestic human rights NGOs, although only half were authorized. The Government met with registered domestic human rights NGOs, and responded to their inquiries; however, it also harassed, targeted, and prosecuted some of them. Human rights activists and lawyers complained of frequent interruptions of postal and telephone services (*see* Section 1.f.).

The LTDH was one of the most active independent advocacy organizations, with 41 branches throughout the country. The organization received and investigated complaints and protested abuses. According to diplomatic representatives, the Government continued to block a European Union grant to the LTDH, citing a law on NGO financing that includes broad prohibitions on funding of NGOs without Government approval.

Other independent human rights NGOs included: the legally registered Arab Human Rights Institute; the Tunisian Association of Democratic Women (ATFD); the unregistered AISPP; and the ALTT.

Since 1998, the Government has refused to authorize the CNLT's registration as an NGO. The CNLT issued statements sharply criticizing the Government's human

rights practices. Government officials accused CNLT members of violating the pro forma submission requirements by publishing communiqués without prior government approval (*see* Section 2.a.).

During the year, significant numbers of RCD members continued attempts to join independent NGOs, such as the LTDH and other civil society groups, with the apparent intent of eventually gaining control of the NGOs through elections. In some cases they used the NGOs' own bylaws, while in other cases they exploited a provision of the country's law on associations that requires "organizations of a general character" to grant membership to all who apply. This strategy brought mixed results, but it could achieve eventual success, especially since the number of independent NGOs was relatively low.

During the year, the Government deterred several foreign NGOs from visiting the country to work on election monitoring projects. The Government cited the country's October 24 elections as an especially sensitive time that precluded controversial visits. The Government also sought to control and monitor the activities of some foreign NGOs within the country.

The ICRC maintained a regional office in the country. During the year, the Government entered into discussions with ICRC representatives over granting the ICRC access to the country's prisons; however, no agreement was reached during the year (*see* Section 1.c).

The Ministry of Justice and Human Rights has the lead on government policy on human rights issues in the country. There were also human rights offices in other ministries. The Ministry did not release any public reports of cases or investigations. A government appointed and funded body, the Higher Commission on Human Rights and Basic Freedoms, addressed, and sometimes resolved, human rights complaints. The Higher Commission submitted confidential reports directly to President Ben Ali. The Government maintained several human rights websites, which promoted the country's human rights record; however, it continued to block access to the sites of domestic human rights organizations (*see* Section 2.a.).

Section 5. Discrimination, Societal Abuse, and Trafficking in Persons

The Constitution provides that all citizens are equal before the law, and the Government generally respected these rights. Legal discrimination was not pervasive; however, in some areas such as inheritance and family law, Based based provisions in the civil code adversely affected women.

Women.—Violence against women occurred, however, there were no comprehensive statistics to measure its extent. Police officers and the courts tended to regard domestic violence as a problem to be handled by the family. Nonetheless, there are stiff penalties for spousal abuse. Both the fine and imprisonment for battery or violence committed by a spouse or family member are double those for the same crimes committed by an unrelated individual. The National Union of Tunisian Women (UNFT) is a government sponsored organization that ran a center to assist women and children in difficulty, and has undertaken national educational campaigns for women. The UNFT reported that their shelter handled 1,000 cases during the year. The Tunisian Democratic Women's Association (ATFD) was active in debating and publicizing women's issues, and also operated a counseling center for women who were victims of domestic violence. The ATFD reported that their shelter assisted approximately 1,000 women. The Center for Studies, Research, Documentation, and Information on Women (CREDIF), a government research organization, reports official information on women's issues.

The Penal Code specifically prohibits rape. There is no legal exception to this law for spousal rape; however, in part due to social stigma, there were no reports of spousal rape being prosecuted. The penalty for rape with the use of violence or threat with a weapon is the death sentence. For all other rape cases, the penalty is life imprisonment.

The Penal Code prohibits prostitution; however, charges against individuals were rare. Prostitution was not a problem. The penalty for prostitution is up to two years in prison. The law applies to both women and men and their accomplices. There were no reported cases of trafficking or forced prostitution involving women.

The 2003 razorblade attacks, in which the victims were women supposedly chosen because they dressed immodestly, stopped after the arrest of two alleged perpetrators in 2003. No information was available about the status of those arrested. If convicted, the Penal Code stipulates a penalty of up to 5 years in prison for violence and use of a knife or razorblade.

Sexual harassment occurred; however, there was no comprehensive data to measure its extent. On August 2, the Chamber of Deputies passed the country's first law making sexual harassment a criminal offense; however, the Government subsequently suspended the law after civil society groups vociferously criticized it. The

law would have instituted sentences of 1 year in prison and a fine of $2,500 (3,000 dinars) for individuals convicted of "publicly insulting acceptable standards of good behavior by gesture or speech."

Women enjoy substantial rights, and the Government advanced those rights in the areas of property ownership practices and support to divorced women. Women comprised approximately 30 percent of the work force. The law explicitly requires equal pay for equal work, and although there were no statistics comparing the average earnings of men and women, anecdotal evidence indicated that women and men performing the same work received the same wages. In 2003, there were an estimated 2,000 businesses headed by women. A slight majority of university students were women. There was a marked difference in female literacy rates by age. According to UN statistics, the rate of female literacy for those between the ages of 6 and 30 was over 90 percent. Female literacy for those over 50 was 10 percent.

Women served in high levels of the Government as cabinet ministers and secretaries of state, comprising more than 13 percent of the total, and President Ben Ali appointed the country's first female governor in April (*see* Section 3). Women constituted 37 percent of the civil service and 24 percent of the nation's total jurists. However, women still faced societal and economic discrimination in certain categories of private sector employment.

Codified civil law is based on the Napoleonic code; however, judges often used Shari' a as a basis for customary law in family and inheritance. Most property acquired during marriage, including property acquired solely by the wife, is held in the name of the husband. Muslim women are not permitted to marry outside their religion. Marriages of Muslim women to non Muslim men abroad are considered common law, and are voided when the couple returns to the country. Application of inheritance law continued to discriminate against women, and there was a double standard based on gender and religion: Non Muslim women and Muslim men who are married may not inherit from each other. The Government considers all children from those marriages to be Muslim, and forbids those children from inheriting anything from their mothers. Female citizens can convey citizenship rights to their children whether the father is a citizen or not.

In February, the Government launched a morality campaign invoking a 1940 law penalizing "immoral behavior" that observers said primarily affected women. There were reports that women were detained for wearing jeans that police judged too tight, for holding hands with men in public, and for driving with young men "without authorization." According to newspaper reports, hundreds of citizens (both men and women) were sentenced to prison terms varying from 4 to 12 months for "immoral behavior."

The Ministry for Women's Affairs, Family, Children and Senior Citizens, has undertaken several national media campaigns to promote awareness of women's rights. Nearly two thirds of its budget is devoted to ensuring the legal rights of women, while simultaneously improving their socioeconomic status. The Government supported and funded the UNFT, the CREDIF, and women's professional associations. Several NGOs focused, in whole or in part, on women's advocacy and research in women's issues, and a number of attorneys represented women in domestic cases.

Children.—The Government demonstrated a strong commitment to free and universal public education, which is compulsory from age 6 to 16 years. According to UNICEF, 95 percent of boys and 93 percent of girls were in primary school, and approximately 73 percent of boys and 76 percent of girls were in secondary school. During the year, female students graduated from secondary school at a higher rate than male counterparts. There were schools for religious groups (*see* Section 2.c.). The Government sponsored an immunization program targeting preschool age children, and reported that more than 95 percent of children were vaccinated. Male and female students received equal access to medical care.

Penalties for convictions for abandonment and assault on minors were severe. There was no societal pattern of abuse of children.

There were two ministries responsible for rights of children: the Ministry of Women's Affairs, Family, and Childhood, and the Ministry of Culture, Youth, and Leisure. Each had secretaries of state responsible for safeguarding the rights of children.

Trafficking in Persons.—The Law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

On January 27, the legislature approved amendments to the 1975 law on passports and travel documents. The law includes provisions for sentencing convicted traffickers to prison terms of 3 to 20 years, and fines of $67,000 to $83,000 (80,000 to 100,000 dinars). The amendments brought national law into conformance with

the international protocol agreement on trafficking of persons. The Government was also prepared to use provisions of the penal code to combat trafficking should the need arise. For example, traffickers could be prosecuted under laws prohibiting forced displacement of persons. Current law also prohibits slavery and bonded labor.

The Ministry of Interior and Local Development and the Ministry of Social Affairs, Solidarity and Tunisians Abroad were the agencies responsible for anti trafficking efforts. Since trafficking was not a problem, there were no specific government campaigns to prevent trafficking.

Persons With Disabilities.—There was little discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law prohibits such discrimination, and mandates that at least 1 percent of public and private sector jobs be reserved for persons with disabilities. The law also specifically prohibits discrimination against persons with mental disabilities. All public buildings constructed since 1991 must be accessible to persons with physical disabilities, and the Government generally enforced these provisions. The Government issued special cards to persons with disabilities for benefits such as unrestricted parking, priority medical services, preferential seating on public transportation, and consumer discounts. The Government provided tax incentives to companies to encourage the hiring of persons with physical disabilities. The Government strongly supported NGOs working to help persons with disabilities.

Several active NGOs provided educational, vocational, and recreational assistance to children and young adults with mental disabilities. The Government and international organizations funded several programs. The Ministry of Social Affairs, Solidarity and Tunisians Abroad was responsible for protecting the rights of persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Labor Code provide workers the right to organize and form unions, and the Government generally respected this right in practice. The General Union of Tunisian Workers (UGTT) is the country's only labor federation. There are some unauthorized, independent trade unions: The Democratic Confederation for Labor and the Tunisian Journalists Syndicate. Approximately 30 percent of the work force belonged to the UGTT, including civil servants and employees of state owned enterprises, and a considerably larger proportion of the work force was covered by union contracts. A union may be dissolved only by court order.

The UGTT and its member unions were legally independent of the Government and the ruling party; however, they operated under regulations that restricted their freedom of action. The UGTT membership included persons associated with all political tendencies. There were credible reports that the UGTT received substantial government subsidies to supplement modest union dues; however, UGTT leaders stated that their only funding came from modest union dues, and revenue from an insurance company and hotel owned by the union. Union members and their families received additional support from the National Social Security Account (CNSS). The Government has provided the UGTT with land for its new headquarters and support for its construction. The central UGTT leadership generally cooperated with the Government regarding its economic reform program. Throughout the year the UGTT board showed some independence regarding economic and social issues, and in support of greater democracy. The UGTT supported the LTDH, and allowed LTDH regional chapters to use UGTT facilities for conferences and meetings.

The law prohibits antiunion discrimination by employers; however, the UGTT claimed that there was antiunion activity among private sector employers, such as the firing of union activists and using temporary workers to avoid unionization. In certain industries, such as textiles, hotels, and construction, temporary workers accounted for a large majority of the work force. The Labor Code protects temporary workers, but enforcement was more difficult than in the case of permanent workers. A committee chaired by an officer from the Labor Inspectorate of the Office of the Inspector General approved all worker dismissals. The committee is composed of representatives from the Ministry of Social Affairs, Solidarity and Tunisians Abroad, the UGTT, and the company dismissing the worker.

b. The Right to Organize and Bargain Collectively.—The law protects the right to organize and bargain collectively, and the Government protected this right in practice. Wages and working conditions are set in triennial negotiations between the UGTT member unions and employers. Forty seven collective bargaining agreements set standards for industries in the private sector, and covered 80 percent of the total private sector workforce. The Government's role in private sector negotiations was minimal, consisting mainly of lending its good offices as a mediator if talks stalled;

however, the Government must approve, but may not modify, all agreements. Once approved, the agreements are binding on both union and nonunion workers in the line of work that they cover. The UGTT also negotiated wages and work conditions of civil servants and employees of state owned enterprises. The Government was the partner in such negotiations. The 2002–03 triennial labor negotiations with the UGTT and the Union of Tunisian Employers (UTICA), the private sector employer's association, resulted in a compromise of a 5 percent wage increase in most sectors.

Unions, including those representing civil servants, have the right to strike, provided that they give 10 days advance notice to the UGTT, and it grants approval. The ICFTU has characterized the requirement for prior UGTT approval of strikes as a violation of worker rights; however, such advance approval rarely was sought in practice. There were numerous short lived strikes over failure by employers to fulfill contract provisions regarding pay and conditions, and over efforts by employers to impede union activities. While the majority of the strikes technically were illegal, the Government did not prosecute workers for illegal strike activity, and the strikes were reported objectively in the press. The law prohibited retribution against strikers. Labor disputes were settled through conciliation panels in which labor and management are represented equally. Tripartite regional arbitration commissions settle industrial disputes when conciliation fails.

There were export processing zones (EPZs) in the country. Organization and collective bargaining rights were not denied by law or practice in EPZs, nor were there any special laws or exemptions of regular labor laws for these zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children, and there were no reports that such practices occurred. However, some parents of teenage girls placed their daughters as domestic servants and collected their wages (*see* Section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor did not pose a significant problem. The minimum age for employment was 16 years, and was consistent with the age for completing educational requirement (*see* Section 5). The minimum age for light work in the non industrial and agricultural sectors, during non school hours, was 13 years. Workers between the ages of 14 and 18 must have 12 hours of rest per day, which must include the hours between 10 p.m. and 6 a.m. In nonagricultural sectors, children between the ages of 14 and 16 years may work no more than 2 hours per day. The total time that children spend in school and work may not exceed 7 hours per day. The minimum age for hazardous or manual labor is 18 years.

The Government adhered to the standards of International Labor Organization Convention 182, and enacted regulations concerning the "worst forms of child labor" and "hazardous" work. Inspectors of the Ministry of Social Affairs and Solidarity examined the records of employees to verify that employers complied with the minimum age law. Nonetheless, as in most agricultural economies, young children sometimes performed agricultural work in rural areas, and worked as vendors in towns, primarily during their summer vacation from school. There were no reports of sanctions against employers.

Child labor existed in the informal sector, disguised as apprenticeship, particularly in the handicraft industry, and in the cases of teenage girls whose families placed them as domestic servants. There was no reliable data on the extent of this phenomenon.

e. Acceptable Conditions of Work.—The Labor Code provides for a range of administratively determined minimum wages, which are set by a commission of representatives from the Ministry of Finance, the Ministry of Social Affairs, Solidarity and Tunisians Abroad, and the Ministry of Development and International Cooperation, in consultation with the UGTT and the UTICA, and approved by the President. In July, the industrial minimum wage was raised to $173 (218 dinars) per month for a 48 hour workweek and to $151 (189 dinars) per month for a 40 hour workweek. The agricultural daily minimum wage is $5.66 (7 dinars) per day for "specialized" agricultural workers and $5.94 (7 dinars) per day for "qualified" agricultural workers. With the addition of transportation and family allowances, the minimum wage provided a decent standard of living for a worker and family; however, that income was only enough to cover essential costs. In addition, the more than 500,000 workers were employed in the informal sector, which was not covered by labor laws.

Regional labor inspectors were responsible for enforcing standards related to hourly wage regulations. They inspected most firms approximately once every 2 years. However, the Government often had difficulty enforcing the minimum wage law, particularly in non unionized sectors of the economy.

The Labor Code sets a standard 48 hour workweek for most sectors and requires one 24 hour rest period per week.

The Ministry of Social Affairs, Solidarity and Tunisians Abroad had responsibility for enforcing health and safety standards in the workplace. There were special government regulations covering hazardous occupations like mining, petroleum engineering, and construction. Working conditions and standards tended to be better in firms that were export oriented than in those producing exclusively for the domestic market. Workers were free to remove themselves from dangerous situations without jeopardizing their employment, and they could take legal action against employers who retaliated against them for exercising this right.

The few foreign workers in the country had the same protections as citizen workers.

UNITED ARAB EMIRATES

The United Arab Emirates (UAE) is a federation of seven semi-autonomous emirates. Traditional rule in the emirates generally is patriarchal, with political allegiance defined in terms of loyalty to the tribal leaders, to the leaders of the individual emirates, and to the leaders of the federation. There are no democratically elected institutions or political parties. There are no general elections; however, citizens may express their concerns directly to their leaders through traditional consultative mechanisms, such as the open majlis, or council. The seven emirate rulers constitute the Federal Supreme Council, the highest legislative and executive body. The Council selects a President and Vice President from its membership; the President, in turn, appoints the Prime Minister and Cabinet. On November 4, the Council elected Sheikh Khalifa bin Zayed al-Nahyan to succeed his late father, Sheikh Zayed bin Sultan al-Nahyan, as head of state for a 5-year term. The Constitution requires the Council to meet annually, although individual leaders meet frequently in more traditional settings. The Cabinet manages the federation on a day-to-day basis. A consultative body, the Federal National Council (FNC), consisting of 40 advisors appointed for 2-year terms by the emirate rulers, reviews proposed legislation, discusses the annual budget, and may question federal government ministers in open sessions. The Constitution provides for an independent judiciary; however, its decisions were subject to review by the political leadership. The country was not affected by serious international or internal conflict.

Each emirate maintains its own police force. The federal Ministry of Interior oversees the Police General Directorates in each of the seven emirates. While all emirate internal security organs theoretically are branches of the federal Ministry of the Interior, in practice they operate with considerable autonomy. Each Police General Directorate supervises the police stations in that emirate. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The country has a free market economy based on oil and gas production, trade, tourism, transportation, and light manufacturing. The expatriate population comprises about 85 percent of the estimated 4.04 million population. Each emirate independently owns local oil and gas production, although nearly all of the country's oil and gas resources are located in Abu Dhabi. The emirate of Dubai has developed into the lower Gulf's leading financial, commercial, transport, and tourism center. The 2003 GDP real growth rate was 7 percent. The GDP growth rate not including the oil sector was 5.8 percent. Oil price increases during the year made a significant contribution to the economy. Wage increases in both the private and public sectors were not linked to the rate of inflation. The economy provided citizens with a high per capita income, but it was heavily dependent on foreign skilled and unskilled workers.

Problems remained in the Government's respect for human rights. Citizens do not have the right to change their government. The Government restricted freedom of speech and of the press. The press practiced self-censorship. The Government restricted free assembly and association, and it restricted religious freedom by banning proselytizing of Muslims. The Government restricted the rights of workers, many of whom were not protected by labor laws. There are no labor unions. There were poor working conditions for some laborers, failure to pay wages, and abuse of foreign domestic servants in an economy in which 98 percent of the private sector workforce is foreign. There were no independent human rights organizations. Trafficking in women as prostitutes and very young foreign boys as camel jockeys continue to be serious problems, despite government pledges to end these practices.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture, and there were no reports that government officials employed it; however, Shari'a (Islamic law) courts sometimes impose flogging sentences on Muslims (except in Dubai, where flogging is banned), and on some non-Muslims, found guilty of adultery, prostitution, and drug or alcohol abuse. There were reports that flogging, when imposed, generally was carried out symbolically to prevent major or permanent injuries; however, in 2003 there was at least one case in Abu Dhabi Emirate of authorities using a leather strap to administer the flogging sentence, which left substantial bruising, welts, and open wounds on the recipient's body.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. However, prison conditions varied widely from emirate to emirate, and some rural prisons were overcrowded and had spartan living conditions. There were Ministry of Interior reports of prison overcrowding in Abu Dhabi and reports by a Dubai prison official of overcrowding in Dubai prisons. Noncitizens represented approximately 75 percent of all prisoners. Men and women are housed separately. Conditions for women were equal to or slightly better than those for men. Pre-trial detainees were held separately from convicted criminals before trial. Juveniles were held separately from adults. Security prisoners were held separately from the general populace, in special sections of the regular prisons. Conditions in these sections were not significantly different than other parts of the prisons.

Police in Dubai and Abu Dhabi allow NGOs access to observe prison conditions, if requested; however, there were no reports of any requests for such visits during the year. Members of religious and national communities regularly met with prisoners. Representatives from the General Women's Union (GWU), a local organization partially funded by the Government, regularly met with female prisoners, helped financially, and paid airfare, when necessary, to repatriate noncitizens after their release.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. However, the law permits incommunicado detention, and the Government has in the past used it in sensitive criminal cases in which the police claim that communication between the accused and a third party could jeopardize their investigation. There were no reports of incommunicado detention during the year.

The federal Ministry of Interior oversees the Police General Directorates in each of the seven emirates; however, each emirate maintains its own police force and supervises the police stations in that emirate. While all emirate police forces theoretically are branches of the federal Ministry of the Interior, in practice they operate with considerable autonomy. Police stations take complaints from the public, make arrests, and forward all cases to the Public Prosecutor. These cases are then transferred to the courts. All cases are filed with the Ministry of Interior. Incidents of police corruption are uncommon, and there was no evidence of police impunity during the year.

The Government has taken a number of measures to train the police with respect to human rights issues. During the year, Dubai police opened Human Rights Care Departments in all Dubai emirate police stations. These departments are mandated to protect the human rights of both victims and perpetrators of crimes, and to prevent illegal law enforcement practices that might be committed against crime suspects.

In January, Dubai police held a law enforcement training seminar focusing on human rights protection, including crime victim protection.

In April, Dubai police and the U.N. Office of the High Commissioner for Human Rights (OHCHR) sponsored the First Regional Arab Police Human Rights Training Workshop. The 5-day, 400-delegate workshop covered a broad range of human rights issues for participants from 17 countries.

The Abu Dhabi Police Officers' Training Institute held an Anti-Trafficking in Persons training symposium in May and a Human Rights training symposium for law enforcement personnel in November.

The law prohibits arrest or search without probable cause, and the Government generally observed its provisions. The security forces generally obtained warrants.

Under the Criminal Procedures Code, police must report arrests within 48 hours to public prosecutors, who must determine within the next 24 hours whether to charge, release, or order further detention pending an investigation. Public prosecutors may order that detainees be held up to 21 days without charge. In cases of felonies or misdemeanors punishable by imprisonment, authorities must obtain court orders after 21 days for additional detention. Court-ordered extensions may not exceed an additional 30 days of detention without charge. Judges may renew this 30-day detention indefinitely. Suspects have the right to protest any extensions of their detention periods ordered in absentia. An anti-terrorism law passed in July increases the amount of time that public prosecutors can hold suspects in terrorism-related cases without charge from 21 days to 6 months. Afterward, terrorism cases are handled by the Supreme Court, which may extend the detention period indefinitely.

There were complaints from several diplomatic missions that authorities did not always notify them when their citizens were detained or arrested.

There is no formal system of bail; however, authorities can release detainees temporarily who deposit money, an important document such as a passport, or an unsecured personal guarantee statement signed by a third party. Those arrested on regular charges were generally allowed to telephone third parties while in detention.

Defendants in cases involving loss of life, including involuntary manslaughter, can be denied release in accordance with the law. However, bail usually is permitted after a payment of compensation to the victims' families, commonly called "blood money," or diya, which is a form of financial penalty imposed on defendants in criminal cases involving a killing.

A defendant is entitled to an attorney only after the police have completed their investigation. As a result, police can question accused persons sometimes for days or weeks without benefit of legal counsel if the Prosecutor General approves.

There were no reports of political detainees.

Rulers of the individual emirates regularly pardon prisoners on religious and national holidays. Most pardoned foreign nationals were deported.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, its decisions were subject to review by the political leadership.

There is a dual system of Shari'a (Islamic) courts for criminal and family law matters and civil courts for civil law matters. Civil courts generally are part of the federal system, except in the Dubai and Ras Al-Khaimah Emirates, and are accountable to the Federal Supreme Court, which has the power of judicial review as well as original jurisdiction in disputes between emirates or between the federal Government and individual emirates. The emirates of Dubai and Ras Al Khaimah have their own local and appellate courts, which have jurisdiction over matters within their territories that the Constitution or federal legislation does not specifically reserve for the federal system. The emirates of Dubai and Ras Al-Khaimah do not refer cases in their courts to the Federal Supreme Court for judicial review, although they maintained a liaison with the federal Ministry of Justice, Islamic Affairs, and Endowments.

Each emirate administers Shari'a courts. In some emirates, these courts consider all types of civil and commercial cases as well as serious criminal cases and family matters. They act in accordance with traditional Islamic law and practice, but also are required to answer to the Federal Supreme Court. Dubai has a special Shi'a council to act on matters pertaining to Shi'a family law (*see* Section 5).

The Constitution provides accused persons the right to a speedy trial. This right was invoked most often in civil cases, with civil defendants at times demanding same day disposition of the cases filed against them. Authorities generally brought criminal defendants to trial in 2 to 3 months, with the exception of more slow-moving drug related cases, in which authorities are required to inform the office of the ruler for the emirate in which the offense was committed.

Trials can last more than a year, depending on the seriousness of the charges, number of witnesses, and availability of judges. Review of criminal cases by the local ruler's court, or diwan, as well as bureaucratic delays in processing or releasing prisoners, at times resulted in time served beyond the original sentences.

Many judges were noncitizen Arabs, whose mandates were subject to periodic renewal by the Government. The percentage of citizens serving as public prosecutors and judges, particularly at the federal level, continued to grow. Between 55 and 60 percent of all judges were citizens.

Legal counsel may represent defendants in both court systems. Under the Criminal Procedures Code, the defendant has a right to government-provided counsel in all cases involving a capital crime or possible life imprisonment, regardless of whether the defendant is financially able to hire counsel. The Government provides

counsel to indigent defendants charged with felonies punishable by imprisonment of 3 to 15 years.

Defendants are presumed innocent. All trials are before judges, not juries, and trials are public, except for national security cases and those deemed by the judge likely to harm public morality.

Each court system has an appeals process. Death sentences may be appealed to the ruler of the emirate in which the offense is committed, or to the President of the Federation. The Government normally negotiates with victims' families, often offering financial compensation, or diya, to the victim's families to receive their forgiveness and commute death sentences. Eliminating death sentences does not affect prisoners' incarceration periods.

Non-Muslims who are tried for criminal offenses in Shari'a courts can receive civil penalties at the discretion of the judge. Shari'a penalties imposed on non-Muslims can be overturned or modified by a higher court.

In cases in which a defendant is acquitted, the prosecutor may appeal the acquittal to a higher court. The higher court may receive additional evidence. The appellate standard for overturning an acquittal is "without the slightest doubt of guilt."

The local rulers' diwans, following traditional prerogatives, maintain the practice of reviewing many types of criminal and civil offenses before cases are referred to the prosecutor's office. The diwans may review sentences passed by judges and return cases to the court on appeal. The diwans' involvement, which typically occurs when the case involves parties from two different emirates or a citizen and a noncitizen, can lead to long delays prior to and following the judicial process.

The military has its own court system. Military tribunals try only military personnel. There is no separate national security court system.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits entry into homes without the owner's permission, except with a warrant and in accordance with the law, and the Government generally respected these prohibitions in practice. Only police officers and public prosecutors carrying a warrant are permitted entry into homes. Officers' actions in searching premises are subject to review, and officers are subject to disciplinary action if their actions are judged to be irresponsible. Local custom and practice place a high value on privacy, and entry into private homes without owners' permission is rare. A female police officer is required to be present during the search of a private home when male family members are absent.

Authorities do not commonly screen private correspondence; however, there have been reports of censorship of incoming international mail. The Government-owned Internet provider, Etisalat, regularly blocks internet sites determined to be "objectionable" (*see* Section 2.a.).

Family matters for Muslims are governed by Shari'a law and the local Shari'a courts. Muslim women are forbidden to marry non-Muslims. In such cases, both parties can be arrested and tried. However, Muslim men are free to marry all women "of the book," which means Muslim, Christian and Jewish women (*see* Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights in practice. The law prohibits, under penalty of imprisonment, criticism of the Government, ruling families, and friendly governments, as well as other statements that threaten social stability; however, the law was rarely enforced because journalists practiced self-censorship.

Two of the country's newspapers, Al-Ittihad and Al-Bayan, were government-owned and one privately owned newspaper, Al-Khaleej, received government subsidies. Most privately-owned newspapers no longer received government subsidies. The country's largest English- and Arabic-language newspapers, Al-Khaleej and Gulf News, were privately owned. Newspapers often relied on news agencies for material. The government owned Emirates News Agency regularly provided material printed verbatim by most newspapers.

By law, the Ministry of Information licenses all publications. The Ministry also approves the appointment of editors. The law governs press content and contains a list of proscribed subjects. Government officials reportedly warned journalists when they published material deemed politically or culturally sensitive. In March, the Minister of Education and Youth temporarily banned some reporters from accessing the ministry building and speaking with ministry employees because the reporters had previously published articles criticizing the performance of the Ministry and its officials.

A de facto ban dating from 2002 prohibiting 10 prominent intellectuals from publishing opinion pieces in the country's Arabic and English language media continued. In 2002, six academics from Al Ain University were also banned from teaching. Some of these academics were also among the 10 intellectuals banned from publishing editorials. The ban has been lifted on at least two of the individuals, and they have returned to writing and teaching. There were no new reports of additional banning of university professors or intellectuals from giving lectures or from publishing in the newspapers.

The government-owned Emirates Media, which publishes Al-Ittihad newspaper and owns Abu Dhabi's radio and television stations, forbids all its employees, including journalists, from speaking with representatives of foreign diplomatic missions without prior approval. In practice, this rule was not enforced.

While self-censorship affected what is reported locally, foreign journalists and news organizations operating out of the Dubai Media Free Zone reported no restrictions on the content of print and broadcast material produced for use outside the country.

Except for those located in Dubai's Media Free Zone, most television and radio stations were government-owned and conformed to unpublished government reporting guidelines. Satellite receiving dishes were widespread and provided access to international broadcasts without apparent censorship. The main pan-Arab dailies were not censored and were distributed on the same day of publication. Censors at the Ministry of Information and Culture reviewed all imported media and banned or censored before distribution material considered pornographic, excessively violent, derogatory to Islam, supportive of certain Israeli government positions, unduly critical of friendly countries, or critical of the Government or ruling families.

Internet access, which was open to public use with an estimated 1.11 million users, was provided through a state owned monopoly, Etisalat. A proxy server blocked material regarded as pornographic, violent, morally offensive, or promoting radical Islamic ideologies, as well as anti-government sites. The proxy server occasionally blocked individual news stories on news websites such as CNN. The Etisalat proxy server provides access to AOL email but blocks other features that enable users to chat online, and (according to Etisalat) those that facilitate hacking. The Internet monopoly solicits suggestions from users regarding "objectionable" sites, and at times the Government responds by briefly blocking some politically oriented sites, which are sometimes later unblocked. Etisalat also blocks commercial "voice chat" sites on the Internet.

Academic materials destined for schools were censored. Students were banned from reading texts featuring sexuality or pictures of the human body.

Unlike the previous year, the Ministry of Education and Youth did not prohibit additional books from school use.

b. Freedom of Peaceful Assembly and Association.—The Constitution does not provide for freedom of assembly and association. Organized public gatherings require a government permit. In practice, the Government does not regularly interfere with informal gatherings held without a government permit in public places, unless there are complaints.

During the year, there were approximately 20 widely publicized, organized gatherings of workers complaining of unpaid wages and unsuitable working conditions before the Ministry of Labor and Social Affairs building (*see* Section 6).

Citizens normally confined their political discussions to the numerous gatherings, or majlises, held in private homes. There were many citizen associations subsidized by the Government, organized for economic, religious, labor, social, cultural, athletic, and other purposes.

Although the Government does not permit freedom of association without prior permission, there were no reports that the Government interfered with associations that formed without prior permission.

There are no political organizations, political parties, independent human rights groups, or trade unions (*see* Sections 3 and 6.a.). All nongovernmental organizations (NGOs) are required to register with the Ministry of Labor and Social Affairs and receive subsidies from the Government. There were approximately 100 domestic NGOs registered with the Ministry of Labor and Social Affairs. However, a number of unregistered local NGOs, focused on a multitude of non-political topics, operate with little or no government interference. The Human Rights Committee of the Jurists Association, a government-subsidized association of lawyers and judicial personnel, focused on local and regional human rights issues. The percentage of citizen membership in NGOs varied widely. All private associations, including children's clubs, charitable groups, and hobby associations, required approval and licensing by

local authorities, although this requirement was enforced loosely in some emirates (*see* Section 4).

Private associations must follow the Government's censorship guidelines and receive prior government approval before publishing any material. Participation by NGO members in any event outside the country is restricted. Participants must obtain government permission before attending such events, even if they are not speakers.

c. Freedom of Religion.—The Constitution provides for freedom of religion in accordance with established customs; however, there are some restrictions on this right in practice. The Federal Constitution declares that Islam is the official religion of all seven emirates. According to the country's first census in 2001, 76 percent of the 4.04 million total population was Muslim, 9 percent was Christian, and 15 percent belonged to other religions.

The Government controls all Sunni and Shi'a mosques, prohibits proselytizing, and restricts the freedom of assembly and association, thereby limiting the ability of religious groups without dedicated religious buildings to worship and conduct business. The Government funded or subsidized the majority of Sunni mosques and employed all Sunni imams; approximately 5 percent of Sunni mosques were entirely private, and several large mosques have large private endowments. A committee of the Ministry of Justice, Islamic Affairs, and Endowments drafts and distributes all Friday sermons to Sunni and Shi'a imams. The Government monitors all sermons for political content.

The Government supports a moderate interpretation of Islam. All Sunni imams are employees of either individual emirate departments or of the Federal Ministry of Justice, Islamic Affairs, and Endowments. Dubai's Department of Islamic Affairs and Endowments has approval authority over preachers in that emirate's private mosques.

The Shi'a minority, concentrated in the northern emirates, was free to worship and maintain its own mosques. All Shi'a mosques were considered private and received no funds from the Government. The Government did not appoint sheikhs for Shi'a mosques, but it did monitor all sermons closely. Shi'a Muslims in Dubai can pursue Shi'a family law cases through a special Shi'a council rather than the Shari'a courts.

Several non-Muslim groups own houses of worship where they can practice their religion freely, although the local ruler owns the land. Groups that did not have their own buildings were limited in their ability to assemble for worship and required to use the facilities of other religious organizations or worship in private homes. The police or other security forces did not interfere with these gatherings.

Individual emirates exercised considerable autonomy in religious matters. There did not appear to be a formalized method of granting official status to religious groups. Facilities for Christian congregations were far greater in number and size than those for other non-Muslim groups, which significantly outnumber the Christian population. There are 24 Christian churches in the country, and Christian primary and secondary schools operate in four emirates. There are two Sikh temples and one Hindu temple operating in the country, all located in Dubai. There are no Buddhist temples; however, Buddhists, along with Hindus and Sikhs in cities without temples, conducted religious ceremonies in private homes without interference. There are only two cremation facilities and associated cemeteries for the large Hindu community, one in Dubai and the other in Sharjah. Official permission must be obtained to use the facilities in every instance, which poses a hardship for the large Hindu community.

The Government prohibits Muslims from converting to other religions. Although non-Muslims in the country are free to practice their religion, they are subject to criminal prosecution, imprisonment, and deportation if found proselytizing or distributing religious literature to Muslims. There is no restriction on proselytizing non-Muslims. There are no specific laws against missionary activities, and there were no reports of authorities revoking residence permits of persons suspected of such activities. Missionaries have performed humanitarian work since before the country's independence in 1971.

During the year, the media reported widely on several cases where women claimed private sector employment discrimination due to their decision to wear the "hijab" head covering, considered a religious mandate by many Muslim women. Some people called for legal protection for female employees who wear the hijab. The Government did not publish an official position on the issue by the end of the year.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for freedom of movement or relocation within the country, and the Government generally respected these rights in practice.

Unrestricted foreign travel and emigration is permitted for male citizens, except those involved in legal disputes under adjudication. Custom dictates that a husband can bar his wife, minor children, and adult unmarried daughters from leaving the country by taking custody of their passports (*see* Section 5). However, there was no enforcement of this custom at exit points unless there was a court order barring an individual from traveling. All citizens have the right to return.

There was a small population of "stateless" residents who either were without citizenship or had no proof of citizenship for any country. Many such persons have lived in the country for more than one generation. Many stateless residents originally were from Iran and South Asia. Other stateless residents included Bedouins and their descendants who were unable to prove they originated in the country. There is no formal procedure for naturalization, although foreign women receive citizenship through marriage to a citizen, and anyone may receive a passport by presidential fiat. Because naturalized citizens were not of the country's original tribal groups, their passports and citizenship status may be revoked for criminal or politically provocative actions. However, such revocations were rare, and there were no reports of such occurrences during the year.

Children born to all male citizens acquire citizenship at birth. The same benefit does not extend to children of female citizens married to noncitizens; however, female citizens under these circumstances can apply to the Ministry of Presidential Affairs for citizenship for their children. Passports are generally issued and citizenship is generally received even though there is no provision in the law.

In July 2003, the Government banned the widespread practice of employers forcing foreign national employees to surrender their passports as a condition of employment, although enforcement is reportedly uneven. This practice had prevented international travel or repatriation by foreign national employees without their employers' consent, and it had especially affected employees in the resolution of employment disputes. Citizens were not restricted in seeking or changing employment. However, foreign nationals in most occupations are not permitted to change employers without first leaving the country for 6 months, unless the former employer agrees to waive the requirement (*see* Section 6.e.).

The Government has not established a system for providing protection to refugees who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and it is not a party to the Convention or the Protocol. The Government does not provide protection against refoulement, or the return of persons to a country where they feared persecution. The Government does not routinely grant refugee status or asylum.

Refugees generally are required to petition for settlement in third countries. In the past, the Government detained persons seeking refugee status, particularly non-Arabs, while they awaited resettlement in third countries.

Last year, there were cases in which the Government indicated its intention to force refugee seekers to return home to countries where they feared persecution; however, there were no reports that such deportations took place before the U.N. High Commissioner for Refugees (UNHCR) resettled the refugees in safe countries of transit.

The Constitution prohibits forced exile, and there were no reported cases during the year.

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

The law does not provide citizens with the right to change their government peacefully. There are no democratic elections or institutions, and citizens do not have the right to form political parties.

Citizens could not freely change the laws that govern them. Federal executive and legislative power is in the hands of the Federal Supreme Council, a body composed of the hereditary rulers of the seven emirates that elects from its members the country's president and vice-president. Decisions at the federal level generally were made by consensus among the rulers, their families, and other leading families. The seven emirate rulers, their extended families, and those persons and families to whom they are allied by historical ties, marriage, or common interest, held political and economic power in their respective emirates. On November 4, the Federal Supreme Council elected Sheikh Khalifa bin Zayed al-Nahyan to succeed his late father, Sheikh Zayed bin Sultan al-Nahyan, as head of the state for a 5-year term.

The rulers appoint the Federal National Council (FNC), a 40-person advisory federal consultative body. The advisors are drawn from each emirate, with proportion

based on emirate population. The FNC has no legislative authority but it may question ministers and make policy recommendations to the Cabinet. The FNC's sessions were usually open to the public.

The ruling families, in consultation with other prominent tribal figures, choose new emirate rulers. By tradition, rulers and ruling families were presumed to have the right to rule, but their incumbency ultimately depended on the quality of their leadership and their responsiveness to their subjects' needs. Emirate rulers were accessible, in varying degrees, to citizens with a problem or a request.

There were very few women in senior positions. There were no female members of the FNC or the judiciary, although the law does not prohibit women from serving in these capacities, and several senior Government officials have publicly encouraged more female participation in governance. In a November Cabinet reshuffle, a prominent businesswoman was appointed Minister of Economy and Planning, the first woman to serve on the federal Council of Ministers. In Sharjah, there were seven women serving on the 40-seat Consultative Council. In no other emirates were there women in non-federal senior government positions. Other women in senior federal government positions included an undersecretary in the Ministry of Labor and Social Affairs and two assistant undersecretaries for planning and evaluation in the Ministry of Education. The number of women serving in the Ministry of Foreign Affairs' diplomatic corps doubled from last year to 40, comprising approximately 17 percent of the diplomatic corps. Prior to 2001, women were not allowed to serve as diplomats.

Although the small Shi'a minority enjoyed commercial success, there are no Shi'a in top positions in the federal government.

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

There are no truly independent human rights organizations in the country. The only local human rights NGO was the government-subsidized Jurists' Association Human Rights Committee, which focused on human rights education, and conducted seminars and symposia subject to government approval (*see* Section 2.b.).

In July, a group of citizens petitioned the Ministry of Labor and Social Affairs to approve the registration of an independent human rights NGO. The Ministry accepted the application, and the press reported widely on the move. Although the Ministry, by its own regulation, is required to act on all such applications within 30 days of receipt, the group did not receive approval or refusal by the end of the year.

Government officials were cooperative and responsive to some international human rights groups that visited the country. In January and July, Amnesty International (AI) visited the country and met government officials, citizens, and noncitizens.

Domestic NGOs are required to register with the Government and are subject to many regulations and restrictions, particularly those regulating the investigating and publishing of their findings. In practice, these restrictions, if violated, were often overlooked.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equality before the law without regard to race, nationality, or social status; however, there was institutional and cultural discrimination based on sex and nationality. Muslim women are forbidden to marry non-Muslims (*see* Section 1.f.). Custom dictates that a husband can bar his wife, minor children, and adult unmarried daughters from leaving the country. All male citizens can pass citizenship to their children at birth, whereas female citizens married to noncitizens cannot pass citizenship to their children (*see* Section 2.d.). Migrant workers infected with HIV are denied all healthcare benefits, quarantined, and subsequently deported.

Women.—Shari'a, or Islamic law, governs the personal status of women, but civil law governs their activities in the civic and commercial sphere.

Abuse and rape are criminal offenses, and offenders are prosecuted and penalized. There were some reported cases of spousal abuse. The law protects women from verbal abuse and harassment from men, and violators are subject to criminal action. Police units are stationed in major public hospitals so that victims of abuse may file complaints, which fall under the jurisdiction of the Shari'a courts. In addition, attending physicians may call police to interview suspected victims of abuse. Social workers and counselors, usually female, also maintained offices in public hospitals and police stations. However, women sometimes were reluctant to file formal charges for social, cultural, and economic reasons. When abuse is reported to local police, authorities may take action to protect the complainant. All Dubai police departments, and many police departments in other emirates, have human rights and

social support offices that provide assistance to women and children who are victims of abuse. The Government was generally effective in enforcing women's rights and protecting women from abuse. While abuse against women does exist, it is not considered to be a pervasive problem.

There continued to be credible reports of physical and sexual abuse of female domestic servants by some local and foreign employers (*see* Section 6.e.).

Prostitution is illegal; however, it has become an increasing problem in recent years, particularly in Dubai. Substantial numbers of women reportedly arrive regularly from the states of the former Soviet Union, Africa, South Asia, East Asia, Eastern Europe, other states of the Middle East, and most recently China, for temporary stays, during which they engage in prostitution and other activities connected to organized crime. While some prostitutes were trafficked into the country, there was credible evidence that many entered the country willingly, for economic reasons.

While prostitution was widely acknowledged to exist, the Government did not address the issue publicly because of societal sensitivities. However, during the year, there was an increasing number of press reports highlighting the problems of prostitution and human trafficking.

In addition to increased policing and tightened immigration procedures, authorities also restricted the number of visas issued to single young women from certain countries of concern; however, problems continued with more facile access at airports in the northern emirates and with airline tourism companies reportedly continuing to obtain tourist visas for prostitutes.

There are no legal prohibitions against women owning their own businesses. Women working as doctors, architects, and lawyers typically did not face restrictions on licensing their own businesses. The Abu Dhabi Chamber of Commerce and the General Women's Union regularly conducted programs to encourage small business entrepreneurship by women. In April, three women were appointed Board Members of the Dubai Chamber of Commerce, marking the first time a woman had been appointed to the Board.

Women who worked outside the home sometimes did not receive equal benefits. For example, if a woman and her husband were both employed by the Government, both housing allowances would be paid to the husband because he is obliged under Shari'a to provide housing for his immediate family. The Government provided housing allowances to single women and to married women whose husbands were employed in the private sector. Women also reportedly faced discrimination in promotion.

Maternity leave for public sector employees can amount to 6 months. However, in November, the Ministry of Education implemented a regulation canceling the appointments of teachers who were pregnant. Several schools reportedly asked applicants to sign pledges not to become pregnant. The unpopular moves sparked protests from teachers and community members, and the press printed several editorials criticizing the regulation. The Ministry of Education later modified the regulation to reduce maternity leave from six months to 45 days for citizen teachers, and guaranteed that their jobs would be restored after the maternity leave.

Opportunities for women were growing in government service, education, private business, and health services. According to a Ministry of Planning report issued in 2003, citizen and noncitizen women constituted approximately 22 percent of the national workforce. The Government publicly encouraged citizen women to join the workforce and ensured public sector employment for all that apply. Women comprised the majority of primary and secondary school teachers and health care workers, and they accounted for almost half of all government workers.

Shari'a law of inheritance applies equally to men and women, although laws of distribution may differ. When a woman marries, her separate property, including her dowry, which is set by law at a maximum of approximately 50,000 dirhams ($13,700), and the income of her separate property remain under her control and are not commingled with the separate property of her husband. During the marriage, the husband is legally obliged to provide a marital home and necessities for his wife and children. In the event of divorce, a woman takes her separate property, any amount she receives in a property settlement with her husband, plus any allowance granted for her and her children's maintenance.

There are no legal restrictions on the travel of women. However, custom dictates that a husband can bar his wife, minor children, and adult unmarried daughters from leaving the country. When practiced, this was commonly accomplished by the husband taking custody of their passports (*see* Section 2.d.). Authorities at exit points generally did not enforce this practice without a court order.

Shari'a law is applied in personal status cases. The law permits men to have more than one wife, but not more than four at any given time.

Divorce is permissible, although often difficult for a woman to obtain. A woman may be granted a divorce if she can prove that her husband has inflicted physical or moral harm upon her. A woman also may sue for divorce if her husband has abandoned her for a minimum of 3 months, or if he has not maintained the upkeep of her or her children.

Divorced women normally receive custody of female children until the children reach the age of maturity or marry. Divorced women are normally granted custody of male children until the age of 13. If the court deems the mother to be unfit, custody normally reverts to the next able female relative on the mother's side. A woman who remarries may forfeit her right to the custody of children from a previous marriage.

Fornication is a crime. The Government may imprison and deport noncitizen women if they bear children out of wedlock. In the event that a court sentences a woman to prison for such an offense, local authorities, at the request of the prisoner, may hold the newborn children in a special area within the prison or place them with a relative. In rare cases, children are held in other facilities until the mother's release from prison.

The law prohibits sexual harassment. During the year, the press reported incidents of men being arrested and prosecuted for publicly sexually harassing women.

Women constitute nearly 72 percent of university students. Coeducation is prohibited in government schools and universities, with the one exception of the UAE University Executive MBA Program. In this program, men and women, as well as Emirati and expatriate students, were allowed to take classes together. The American Universities in Dubai and Sharjah, both private institutions, along with the new private university campuses being opened in Dubai's Knowledge Village, are coeducational as well. Government-sponsored women's centers provided adult education and technical training courses. Women are actively recruited to work as police officers in airports, immigration offices, and in women's prisons. The Dubai Police College also recruits women. The armed forces still accept female volunteers and their numbers are increasing yearly.

Neither the labor law nor the civil service law, which covers labor matters in the public sector, prohibits the employment of women. A man has no right under Shari'a law to ban his wife from working if she was employed at the time of their marriage. By custom and tradition, some government administrations do not employ married women without their husbands' written consent.

Children.—The Government is committed to children's rights and welfare, and expends resources on the welfare of child citizens; however, noncitizen children receive fewer benefits.

Male and female children receive free health care and free public education through the university level.

Education is compulsory through the ninth grade. Citizen children are required to attend gender-segregated schools through the sixth grade, the last grade of primary education, when children can be as young as 10 or 11 years old. However, compulsory education was not enforced, and some children did not attend school. For the 2003–04 academic year, the Ministry of Education reported student dropout rates as 2.7 percent of the 107,296 primary level students (grades 1–5); 4.0 percent of the 100,138 middle school students (grades 6–9); and 6.5 percent of the 67,714 students at the secondary level (grades 10–12). The percentage of dropouts for the same year at the 10th grade level was 6.0 percent for females and 12.8 percent for males, which was the highest rate for any group of students at any level. The Ministry of Education lists the primary reasons for secondary-level dropouts as truancy, parents' will, and "others."

Housing benefits are also routinely granted to citizens with children. Some citizens opted for available government land grants and interest-free loans to build their homes. Citizens employed by the Government were also eligible to receive higher salaries to support their children who are under the age of 18, are unmarried, or have disabilities. The Government, through its Marriage Fund, encouraged citizens to marry fellow citizens by providing significant funding to subsidize dowries and to offset customarily high wedding expenses. The media regularly published articles encouraging citizens to have large families.

Noncitizen resident children are not permitted to enroll in public schools unless they live in rural areas that lack private schools. Many foreign workers in private sector employment received education allowances as part of their salary packages. The Government provided an annual subsidy of approximately 6000 dirhams ($1600) per family to its noncitizen employees for private school tuition for those who do not receive the extra salary benefit.

Child abuse was not prevalent. Trafficking of young, noncitizen boys employed as camel jockeys continued to be a serious problem, although the Government has pledged to eliminate this practice for boys under the age of 15 (*see* Section 5, Trafficking).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, although child smuggling, forced prostitution, kidnapping, fornication, and pornography are crimes. In practice, trafficking in women and girls used as prostitutes and domestic servants, men used as servants, laborers, and unskilled workers, and very young boys used as camel jockeys, continued to be serious problems. The Government has pledged and taken some measures of limited effectiveness against these practices.

A number of reliable sources confirm that young boys were still being used as camel jockeys during the year. According to NGO and press reports, including one in-depth documentary by HBO's "Real Sports" program which aired in October, many boys remained subject to extremely harsh living and working conditions that, at times, led to serious injuries and death. The program alleged that not only were very young boys still being used as camel jockeys, but that these boys were subjected to physical abuse, including sexual abuse, by their supervisors and trainers. While there is no evidence that the camel farm owners/employers participated personally in these abuses, there is likewise no evidence that the camel farm owners and employers took any measures to prevent or stop the abuse occurring on their farms. Further reports accused some supervisors of subjecting boys to malnutrition. One child was killed in September after falling from a camel during a race, and many more children were reportedly injured from camel racing. The HBO television documentary highlighted the efforts by the Ansar Burney Welfare Trust International (ABWTI), a Pakistan-based human rights NGO, which has helped rescue almost 400 children from farms and tracks within the country over the past year.

Until December, camel racing was regulated by the Camel Racing Federation, composed of wealthy and influential owners. Camel racing is now instead regulated by the Ministry of Interior.

Regulations by presidential decree prohibit (or "ban") the use of boys under the age of 15 and less than 45 kilograms (99 pounds) as camel jockeys, in an effort to eliminate the trafficking of young boys to the country for this purpose. A draft law formalizing these regulations was not passed by year's end.

To enforce the regulations, the Government tightened immigration controls and mandated DNA testing for boys with questionable family ties suspected to be trafficking victims. The Government requires all camel jockeys to undergo medical testing to prove their age and fitness level before issuing ID cards, which are required to be displayed by all jockeys at racetracks. Police and Camel Racing Federation officials reported they regularly conducted inspections at camel races to ensure the jockeys met regulations.

Camel farm owners who are first-time offenders of the child camel jockey ban are liable for a fine of 20,000 dirhams ($5,500). Repeat offenders can receive a 1-year participatory ban from camel racing. Third-time and subsequent offenders receive imprisonment. There were no publicly available statistics on prosecutions and fines.

The Government worked with source country embassies, consulates, and NGOs to repatriate some of the boys who were trafficked in the past to work as camel jockeys. There are no government statistics available to estimate how many underage foreign boys, currently or previously working as camel jockeys, remained in the country. ABWTI estimates approximately 5,000 boys are still in the country working as camel jockeys. Combined, ABWTI, the Government, and the Embassy of Pakistan were responsible for, and in many cases collaborated on, the rescue and repatriation of at least 400 underage boys during the year.

In December, the Government opened a shelter and rehabilitation center for rescued underage camel jockeys, located on a military compound near Abu Dhabi. The center, which is run in coordination with human rights activist Ansar Burney, offers the children medical care and basic education while awaiting repatriation. Approximately 30 of the rescued boys were housed in the shelter by the end of the year.

There was an increasing number of media reports during the year of trafficking in women and girls to the country, especially to Dubai, for the purposes of sexual exploitation, although the Government pledged and took some measures to eliminate this practice. It was unknown whether these measures were effective. Often, women were brought into the country with false job offers in the hotel or medical sectors or as domestic servants, but upon arrival they were forced into prostitution. The traffickers, who almost always were citizens of the victims' home countries, reportedly seized their passports and forced them to work as prostitutes to repay their travel and living expenses, which quickly became unmanageable. However, the

women received little or no payment for their work, which made it difficult or impossible to repay their debts. There were reports that traffickers commonly "sold" their victims to other traffickers, and the new traffickers held victims responsible for paying off the new, higher debt.

Observers believe that trafficking activity was conducted with the complicity of some of the women's citizen sponsors and with noncitizen traffickers who were exploiting the sponsorship system to engage in illicit activity.

Law enforcement, particularly in Dubai and Abu Dhabi, investigated reports of trafficking. The police in Abu Dhabi and Dubai, and the Ministries of Interior, Health, and Justice, all held anti-trafficking training courses throughout the year.

The Government also provided assistance to trafficking victims. Counseling services are available in public hospitals and jails. The Dubai police sponsored a Crime Victims' Assistance Program, and assigned program coordinators in police stations throughout the city.

In July 2003, the Government banned the widespread practice of sponsors forcing workers to surrender their passports as a condition of employment. However, the practice reportedly continued to be widespread.

Persons With Disabilities.—There is no federal legislation requiring accessibility for persons with disabilities; however, most public buildings provided access to disabled persons. There were no reported incidents of discrimination against persons with disabilities in employment, education, or in the provision of other state services.

The Ministry of Labor and Social Affairs sponsored six government-managed physical and mental rehabilitation centers and one employment center, which were open only to citizens. The Ministry of Interior also operates a training and employment center in Al Ain, which trained 100 citizens from all emirates, primarily for public sector jobs, during the year. In 2003, individuals, associations, and local governments created 17 additional centers. The Government of Dubai emirate opened a training center during the year to build professional skills, including English language and computer skills, for the visually impaired.

Other rehabilitation centers were partially owned by the Government or were maintained by charity associations. There was also a significant amount of nongovernmental financial assistance, services, and emotional support to citizens with disabilities.

One percent of all jobs in the federal government are reserved for persons with disabilities.

National/Racial/Ethnic Minorities.—Societal discrimination against noncitizens, while not legally sanctioned, was prevalent and occurred in most areas of daily life, including employment, housing, social interaction, and healthcare. Employment, immigration, and security policies, as well as cultural attitudes towards noncitizens, who comprised approximately 85 percent of the national population, were conditioned by national origin.

More than 50 percent of foreign workers were estimated to have come from the Indian subcontinent. Noncitizens are denied access to many free or reduced-cost services provided by the Government to citizens, including child and adult education, health care, housing, and social and recreational club memberships. While citizens who contact HIV are afforded full, continuous, and free healthcare, noncitizen migrant workers who contract the same disease are denied healthcare and deported. In December, the local press reported that the Ministry of Health would offer a health insurance plan for citizens and expatriates that would give them coverage in all private and public health facilities. Coverage programs were not implemented by the end of the year.

Other Societal Abuses and Discrimination.—Both civil and Shari'a law criminalize homosexual activity. In practice, reports of governmental or societal discrimination against individuals based on sexual orientation are uncommon.

Section 6. Worker Rights

a. The Right of Association.—The law does not specifically entitle or prohibit workers from forming or joining unions; however, if they existed, unions would be subject to general restrictions on the right of association.

Since 1995, the country has been suspended from the U.S. Overseas Private Investment Corporation (OPIC) insurance programs because of the Government's noncompliance with some internationally recognized worker rights standards.

b. The Right to Organize and Bargain Collectively.—Although the law does not grant workers the right to engage in collective bargaining, it expressly authorizes collective work dispute resolution. The Government granted some professional asso-

ciations limited freedom to raise work-related concerns, to lobby the Government for redress, and to file grievances with the Government.

The labor law does not address the right to strike; however, Ministry of Labor officials have said that the law does not forbid strikes, and if laborers feel they are denied their rights, they can stop working. In that case, such workers would be subject to deportation for breach of contract. There were no reports of groups of workers being deported for striking. In practice, there were numerous strikes by private sector employees in addition to organized gatherings of workers who complained of unpaid wages and hazardous or unfair working conditions to the Ministry of Labor and Social Affairs. The Government prohibits strikes by public sector employees on national security grounds.

The Ministry of Labor (MOL) reviews employment contracts for workers in the industrial and service sectors to ensure compliance with the labor laws.

The MOL distributed information to foreign workers outlining their rights under the labor law and how to pursue labor disputes, whether individually or collectively. Employees may file individual or collective employment dispute complaints with the Ministry of Labor, which serves as the mediator between the parties. If the dispute remains unresolved, the employee may file a complaint with the labor court system. In a collective work dispute concerning a subject of interest to a group in an establishment, trade, vocation or in a certain vocational sector, employees or employers may file complaints with the Ministry of Labor if they are unable to settle such disputes amicably. The labor law gives the MOL 2 weeks to resolve the dispute or refer it to courts. In practice, it generally takes a month or more for this to happen. If the Ministry of Labor is unable to mediate a settlement within 10 business days, the complaint is to be submitted to a Conciliation Committee for mediation. Either the employee or employer can appeal the Conciliation Committee's decision to a Supreme Committee of Conciliation, whose decision, while final, is only enforceable if both parties agree to the decision. Either party can, at any time in the process, ask that their dispute be referred to the Court of First Instance.

The labor law does not cover, and therefore does not protect, government employees, domestic servants, and agricultural workers; however, a Civil Service Law covers government employees. The Ministry of Interior's Naturalization and Residency Administration mandated use of standard contracts for noncitizen domestic servants, clearly listing the salary, work requirements, and duration of employment. Domestic workers may bring work-related disputes to conciliation committees organized by the Ministry of Interior or to the Court of First Instance, and most disputes between employers and domestic servants are settled by the Ministry of the Interior.

Domestic servants and agricultural workers have historically faced considerable difficulty in negotiating employment contracts because the mandatory requirements contained in the labor law do not apply. They also faced considerable difficulty in obtaining assistance to resolve disputes with their employers. The law ties workers' residency permission to their sponsorship by their employer. Moreover, most employment contracts stipulate that for 6 months after the end of employment, the employee is forbidden from working for a "competitor," unless the former employee obtains a letter of "no objection" from the former employer. This regulation has been widely used to restrict foreign worker labor mobility inside the country. Some professional-level workers, such as doctors, engineers, and consultants, are allowed to switch employers without leaving the country.

In 2003, the Ministry of Labor and Social Affairs increased the number of inspectors from 48 to 60 and, for the first time, enabled them to fine violators.

Businesses in free trade zones must comply with federal labor law; however, the Ministry of Labor did not regulate them. Instead, each free trade zone maintains its own labor department to address workers' concerns.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor for both adults and children; however, employment agents continued to bring some foreign workers to the country to work under forced or compulsory conditions. Women were brought to the country under false promises of legitimate employment and were instead forced into prostitution (*see* Section 5). Low-paid unskilled and semi-skilled workers were also victims of contract switching.

The law prohibits forced or compulsory child labor, and the Government generally enforced this prohibition effectively, except in the cases of child camel jockeys (*see* Sections 4, 5, and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor law prohibits employment of persons under the age of 15 and has special provisions for employing those 15 to 18 years of age. The Ministry of Labor and Social Affairs is responsible for enforcing the regulations. The Government does not issue work per-

mits for foreign workers under the age of 18 years. Child labor was not tolerated, with the exception of child camel jockeys (*see* Sections 4, 5, and 6.c.).

e. Acceptable Conditions of Work.—Noncitizens comprised approximately 98 percent of the private sector workforce. The country was a destination for a large number of unskilled workers, including up to 300,000 domestic servants, most of them women from South and East Asia, and a much larger number of unskilled male workers, mostly from South Asia. These unskilled laborers actively competed for jobs in the country and in other Gulf countries, and they were sometimes subject to poor working conditions. Female domestic servants sometimes faced abusive working conditions.

The standard workday is 8 hours per day, and the standard workweek is 6 days per week; however, these standards were not strictly enforced. Domestic servants and agricultural workers were not covered by the labor law and were often obliged to work longer than the mandated standard. According to the Ministry of Labor and the labor law, employees are entitled 2 days of annual leave per month after finishing six months on the job, up until that person passes the 1-year mark, after which the employee is entitled to 30 calendar days of annual leave in addition to national holidays.

There is no minimum wage. Salaries depended on the occupation and employer and ranged from 400 dirhams ($109) per month for domestic or agricultural workers to 600 dirhams ($164) per month for construction workers to much higher salaries for highly skilled and white-collar employees. Compensation packages generally provided housing or housing allowances. However, low-skilled employees were often provided with substandard living conditions, including overcrowded apartments or lodging in unsafe and unhygienic "labor camps," lack of electricity, lack of potable water, and lack of adequate cooking and bathing facilities. In addition, other benefits, such as food, homeward passage or health cards for minimal to no-cost healthcare were often provided for employees by their employers. Some low-paid workers did not receive these benefits, even if stipulated in their contracts. Local newspapers detailed numerous cases of non-payment of wages to foreign workers, but also reported the Ministry of Labor blacklisted nearly 1,100 firms in the first 7 months of the year in Dubai and the northern Emirates, for violating the labor law, particularly for failing to pay salaries, employing workers who are sponsored by others, or providing substandard living or working conditions.

The Ministry of Labor and Social Affairs reviews labor contracts and does not approve any that stipulate substandard wages.

Most foreign workers do not earn the minimum salary required to obtain residency permits for their families. The Government wishes to ensure that accompanying families are supported adequately. Accordingly, the required monthly minimum salary to permit accompanying families is 3,924 dirhams ($1,090), or 2,941 dirhams ($817) per month when housing or an additional housing allowance is provided.

The law requires that employers provide employees with a safe work environment. Local medical experts recommend that it is inadvisable for laborers to work outdoors when the temperature exceeds 40 degrees Celsius, and that employers provide safety helmets and adjust work hours to reduce exposure to the sun. However, there were numerous press reports that workers were required to work without such safety measures in temperatures of 50 degrees Celsius and higher. Workers often complained that employers did not provide water, shade, or break periods for outdoor laborers working in the summer heat, and often laborers' cramped living accommodations did not include air conditioning. According to press reports, as many as 80 laborers per day were treated for heat stroke in hospital emergency rooms in the summer.

The Ministry of Labor received 11,424 complaints involving 16,424 laborers during the year. The majority of complaints concerned unpaid wages. The media reported an estimate by unidentified municipal sources of a 61 percent increase in construction site accidents during the year, rising to 149 accidents.

Workers' jobs were not protected if they removed themselves from what they considered to be unsafe working conditions. However, the Ministry of Labor and Social Affairs can force employers to reinstate workers who were dismissed for refusing to perform unsafe work. Injured workers are entitled to fair compensation, and all workers have the right to lodge labor-related grievances with the Ministry of Labor, which mediates the dispute between the parties. Either party has the right to end mediation at any time and have their complaint referred to the Court of First Instance. Workers, particularly unskilled workers, in dispute with their employers over unpaid wages, generally agree to a mediated settlement for less money than they are owed to avoid a protracted court battle. However, workers in disputes with

employers generally do not take action due to fear of reprisals, including withdrawal of sponsorship or deportation.

There were reports that some employers abused domestic workers. Allegations included excessive work hours, nonpayment of wages, verbal, physical, and sexual abuse, and restriction of movement. Domestic workers may file complaints with the Ministry of Interior or go to court. During the year, the Ministry of Interior took action against hundreds of employers who abused or failed to pay their domestic employees. According to new regulations, ministry officials can ban an employer from further sponsorship of domestic employees after receiving four reports of abuse.

Sponsorship and residency laws do not permit most foreign national employees to change employers. Employers historically have held their employees' passports, thus preventing them from leaving the country without prior permission. In 2003, the Federal Supreme Court ruled that employers could not legally withhold employees' passports because they were personal documents (*see* Section 5). The Ministry of Labor distributed pamphlets to foreign workers advising them to report employers who violated this regulation. However, there were reports that, in many cases, the law did not have a practical impact on either the private or public sectors, and withholding passports from employees still occurred.

When employees leave their work without a valid reason before the expiration of the contract from a limited period, they may not, even with the employer's consent, take up other employment for 1 year from the date on which they left their work. The Ministry of Labor is the concerned authority for enforcing this rule (*see* Section 2.d.).

Employers did not always follow laws regarding the sponsorship of foreign employees. Under these regulations, a company that has one or more employees with an expired work permit will be barred from employing new staff. However, the rule was not enforced consistently.

A law enacted in 2003 requires all foreign workers seeking jobs in the private sector to have at least a high school certificate or equivalent degree. Arabs and construction, agricultural, and domestic workers were exempt from the law.

The Government enforced health and safety standards and required every large industrial enterprise to employ a certified occupational safety officer; however, these standards were reportedly not observed uniformly.

There were no reports of citizens who were involuntarily transferred, retired, or terminated from government employment sectors, including universities, due to their political affiliations or opinions.

YEMEN

Yemen is a republic with an active bicameral legislature composed of an elected 301 seat House of Representatives (Majlis Al Nuwaab) and an appointed 111 member Consultative Council (Majlis Al Shura). President Ali Abdullah Saleh is the leader of the ruling party, the General People's Congress (GPC), which dominates the Government. The Constitution provides that the President be elected by popular vote from among at least two candidates endorsed by Parliament. In 1999, President Saleh was directly elected in a popular vote to another 5 year term, amended in a 2001 referendum to a 7 year term. A competitive candidate did not oppose the President because his sole opponent was a member of the ruling GPC. In April 2003 parliamentary elections, the GPC maintained an absolute majority. International observers judged elections to be generally free and fair, although there were problems with underage voting, confiscation of ballot boxes, voter intimidation, and election related violence. The Parliament was not an effective counterweight to executive authority, although it increasingly demonstrated independence from the Government. The head of the leading opposition party, Islah, led the elected House of Representatives, which effectively blocked some legislation favored by the Executive. Effective political power rested with the executive branch, particularly the President. The Constitution provides for an "autonomous" judiciary and independent judges; however, the judiciary was weak, and corruption and executive branch interference severely hampered its independence.

The primary state security and intelligence gathering apparatus is the Political Security Organization (PSO), which reports directly to the President. In 2002, the government formed a new organization, the National Security Bureau (NSB), which also reports directly to the President's office. The NSB is still carving out its responsibilities, many of which appear to overlap with the PSO; however, its duties were not clearly delineated at year's end. The Criminal Investigative Department (CID)

of the police reports to the Ministry of Interior and conducts most criminal investigations and arrests. The Central Security Organization (CSO), also a part of the Ministry of Interior, maintains a paramilitary force. Civilian authorities generally maintained effective control of the security forces. Members of the PSO and MOI police forces committed serious human rights abuses, including police beatings, arbitrary arrests, and detentions without charge.

The country had a population of approximately 20 million; more than 40 percent of the population lived in poverty, and the estimated unemployment rate was 37 percent. The country's illiteracy rate was 50 percent, with 67.5 percent illiteracy among women. The country's market based economy remained impeded by government interference and corruption. The economy was mixed with a GDP growth rate of 2.8 percent. Oil and remittances from workers in other Arabian Peninsula states were the primary sources of foreign exchange. Foreign aid was an important source of income.

The Government's human rights record remained poor, and the Government continued to commit numerous abuses. There were limitations on citizens' ability to change their government. Security forces arbitrarily continued to arrest, detain, and torture persons. In many cases, the Government failed to hold members of the security forces accountable for abuses, although the number of officials in the PSO and MOI police forces tried for abuses increased for a second consecutive year. Prison conditions remained poor, although the Government took some steps to alleviate the situation. Despite constitutional constraints, PSO and MOI police officers routinely monitored citizens' activities, searched their homes, detained citizens for questioning, and mistreated detainees. Prolonged pretrial detention, judicial corruption, and executive interference undermined due process. During the year, there was a marked increase in limits on freedom of speech and of the press. The Government increased its harassment of journalists. The Government imposed some limits on freedom of movement.

Violence and discrimination against women remained problems. There was some discrimination against persons with disabilities and against religious, racial, and ethnic minorities. Child labor remained a common problem. The Government imposed restrictions on labor unions.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, there were a few reports that security forces killed or injured persons whom they were apprehending, and believed were engaging in criminal activity, or were resisting arrest.

In June, the Government used military force against an armed rebellion in the northern governorate of Saada. The rebellion was led by Shi'ite cleric Hussein Badr Eddine Al Houthi, founder of the "Shabab al Moumineen" (The Believing Youth). Numerous cease fires and mediation attempts failed to end the conflict. On September 10, the Government announced that Al Houthi had been killed in combat. The Government prevented the media from fully conveying the extent of casualties on both sides, as well as the collateral damage. Estimates of civilian deaths ranged from 500 to 1,000, according to Amnesty International (AI). Opposition media and political leaders claimed the Government used excessive force in suppressing the rebellion. Some Al Houthi supporters captured during the conflict remained in detention at year's end (*see* Section 1.d).

In April 2003, election related violence resulted in three documented deaths (*see* Section 3). There were no reports of arrests in relation to this violence.

Tribal violence resulted in a number of killings and other abuses, and the Government's ability to control tribal elements remained limited (*see* Section 5). In several cases, long standing tribal disputes were resolved through government supported mediation by nongovernmental actors (*see* Section 4). Fatal shootings and violence continued during the year. In most cases, it was impossible to determine the perpetrator or the motive, and there were no claims of responsibility. Although a few may have had criminal, religious, or political motives, most appeared to be cases of tribal revenge or land disputes.

On July 7, the trial of six suspects in the 2000 bombing of the USS Cole began, and observers judged it to be fair (*see* Section 1.e.). Two defendants received death sentences, while the other four received prison terms ranging from 5 to 10 years.

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

Unlike in the past, during the year, there was only one incident in which a tribe used kidnapping to bring their political and economic concerns to the attention of the Government. The kidnappers demanded jobs for fellow tribesman; all three for-

eigners were released in August after several hours. There were no arrests or punishments. There were several known instances of carjacking during the year, most perpetrated by economically motivated tribal elements.

c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, there were reports that members of the PSO and MOI police forces tortured and abused persons in detention. There were also reports that authorities used force during interrogations, especially against those arrested for violent crimes.

The Government acknowledged publicly that torture occurred; however, it claimed that torture was not official policy. Most observers reported that both the instances and severity of torture in PSO and Ministry of the Interior prisons have declined; however, there were reports the PSO increased its use of nonphysical indicator abuse such as sleep deprivation, cold water, and threats of sexual assaults. There were reports that the CID routinely used torture in order to obtain confessions.

Illiteracy, lack of training among police, PSO and MOI forces, corruption, and pressure from superiors to produce convictions also played a role in the undue use of force. The immunity of all public employees from prosecution for crimes allegedly committed while on duty hindered accountability. The Government has taken some effective steps to end torture and to punish those who commit such abuses. In 1998, the use of leg irons and shackles in confinement was outlawed. This was adhered to in most MOI run prisons in the past year.

During the year, approximately 54 police officials were disciplined or tried for abuses. All received sentences ranging from 20 days to more than 10 years imprisonment for physical attacks during investigations, shootings, accidental and intentional killings, fraud, and extortion. Seven members of the police force in Taiz were undergoing trial for the severe torture of a juvenile murder suspect in 2002. The case was suspended in October after the defendants failed to appear for court. At year's end, the defendants remained at large, and there was further action in the case.

The Constitution may be interpreted as permitting amputations, in accordance with Shari'a (Islamic law), and physical punishment such as flogging for some crimes. There were no reports of amputations or floggings during the year.

Tribal violence continued to be a problem during the year, causing numerous deaths and injuries (*see* Section 5).

Prison conditions were poor and did not meet internationally recognized standards, and the Government permitted limited visits by independent human rights observers. The Government allowed limited access to detention facilities by parliamentarians and some nongovernmental organizations (NGOs).

Prisons were extremely overcrowded, sanitary conditions were poor, and food and health care were inadequate to nonexistent. Prison authorities often exacted bribes from prisoners to obtain privileges, or refused to release prisoners who completed their sentences until family members paid a bribe. In some cases, authorities arrested without charge and held refugees, persons with mental disabilities, and illegal immigrants in prisons with common criminals.

Women were held separately from men, and conditions were equally poor in women's prisons. By custom, young children and babies born in prison were likely to be incarcerated along with their mothers. At times, male police and prison officials subjected female prisoners to sexual harassment and violent interrogation. Local tradition requires male relatives of female prisoners to arrange their release; however, female prisoners regularly were held in jail past the expiration of their sentences because their male relatives refused to authorize their release due to the shame associated with their alleged behavior. Security and political prisoners generally were also held in separate facilities operated by the PSO.

Children were held in separate facilities from adults. Pretrial detainees were also held in separate facilities in major urban areas.

Unauthorized "private" prisons, in rural areas controlled by tribes, remained a problem. Tribal leaders misused the prison system by placing "problem" tribesmen in "private" jails, either to punish them for noncriminal indiscretions or to protect them from retaliation. At times, such prisons were simply rooms in a tribal sheikh's house. Persons detained in such prisons often were held for strictly personal or tribal reasons, and without trial or sentencing. Although senior officials did not sanction these prisons, there were credible reports of the existence of private prisons in government installations. During the year, modest efforts by the Ministry of Interior and Ministry of Human Rights continued to implement directives intended to align the country's arrest, interrogation, and detention procedures more closely with international standards.

Persons with mental illness who had committed crimes were imprisoned in conditions without adequate medical care. In some instances, authorities arrested without charge persons with mental illness and placed them in prisons with criminals. In August, the Government acknowledged this problem to the International Committee of the Red Cross (ICRC), and committed to rectify the situation. There was no further action made by the Government by year's end.

In July 2003, the President declared the release of mentally disturbed prisoners into the custody of mental institutions. Despite the national Red Crescent's attempt to build and staff adequate and separate detention facilities for prisoners with mental illness, there were not enough mental institutions at year's end.

Access to detainees held by the PSO was limited. Requests for access by parliamentarians were routinely denied. In June, the ICRC suspended a second round of visitations citing a lack of understanding of its universally applied procedures. The ICRC was still working on understandings of protocols for access to PSO prisons at year's end. The ICRC reported that after an October 30 meeting, the Ministry of Interior demonstrated a clearer understanding of its protocols that allowed for greater access to the Ministry's prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the Government generally did not observe these prohibitions. Enforcement of the law was irregular and in some cases nonexistent, particularly in cases involving security offenses. The CID reports to the Ministry of Interior and conducts most criminal investigations and arrests. The CSO, also a part of the Ministry of Interior, maintains a paramilitary force. Corruption was a problem. There was no official government response to or investigations of police corruption during the year.

There were reports that some police stations maintained an "Internal Affairs" section commissioned to investigate abuses, and that any citizen has the right to raise an abuse case with the Prosecutor's office commissioned to investigate cases. Enforcement of the law and effective investigations were irregular due to weak government power in tribal areas and lack of resources. Fifty four police officials were prosecuted for abuses (*see* Section 1.c.).

According to the law, individuals cannot be arrested, unless caught in the act or served with a summons. Detainees must be arraigned within 24 hours of arrest or be released. The judge or prosecuting attorney must inform the accused of the basis for the arrest and decide whether detention is required. The law stipulates that a detainee may not be held longer than 7 days without a court order. Despite these constitutional and other legal provisions, arbitrary arrest and prolonged detention without charge remained common practices.

The law prohibits incommunicado detentions and provides detainees with the right to inform their families of their arrests, and to decline answering questions without an attorney present. The Government must provide attorneys for indigent detainees; however, in practice, this did not always occur. Almost all rural cases are settled out of court with tribal mediators. There are provisions for bail; however, many authorities abided by these provisions only if bribed.

There were reports that an unknown number of supporters of the rebel Shi'ite cleric Al Houthi remained in detention. According to Amnesty International (AI), security forces conducted mass arrests in Sa'da Province, as a result of the June conflict. AI reported that those arrested have been detained incommunicado. There were no trials held by year's end.

Citizens regularly claimed that security officials did not observe due process procedures when arresting and detaining suspects. There were also claims that private individuals hired lower level security officials to intervene on their behalf and harass their business rivals. Security forces at times detained demonstrators (*see* Section 2.b.). Members of security forces continued to arrest and detain citizens for varying periods of time without charge or notification to their families. Detainees were often unaware of which agency was investigating them, and the agencies themselves frequently complicated the situation by unofficially transferring custodial authority of individuals. In some cases where a criminal suspect was at large, security forces detained a relative while the suspect was being sought (*see* Section 1.f.).

The Government failed to ensure that detainees and prisoners were incarcerated only in authorized detention facilities. The Ministry of Interior and the PSO operated extrajudicial detention facilities. Unauthorized private prisons also existed (*see* Section 1.c.).

A large percentage of the total prison population consisted of pretrial detainees, some of whom have been imprisoned for years without charge.

Some government inspection missions and local human rights groups helped secure the release of a few persons held without charge; however, in some instances, the Government did not investigate or resolve these cases adequately.

Throughout the year, the Government sponsored ideological dialogues, led by Islamic scholars, to attempt to release detainees in exchange for repentance of past extremism, denunciation of terrorism, commitments to obey the laws and Government, respect non Muslims, and refrain from attacking foreign interests. Such efforts had limited success.

During the year, the Government continued to detain suspects, accused of links to terrorism. The Government did not publish numbers of detainees held under suspicion of terrorist affiliations or activities; however, estimates ranged between 200 and 400 individuals.

In November, the President released approximately 120 security detainees in honor of Ramadan. The prisoners were released for good behavior and had either completed or nearly completed sentences. All participated in the ideological dialogues.

e. Denial of Fair Public Trial.—The Constitution provides for an "autonomous" judiciary and independent judges; however, the judiciary was weak and severely hampered by corruption and executive branch interference. The executive branch appoints judges, removable at the executive's discretion. There were reports that some judges were harassed, reassigned, or removed from office following rulings against the Government. Many litigants maintained, and the Government acknowledged, that a judge's social ties and occasional bribery influenced the verdict more than the law or the facts.

On December 22, President Saleh announced new directives to bring about judicial reform and the Supreme Judicial Council (SJC), an executive branch council tasked with managing the judiciary, dismissed 22 judges for corruption. The SJC also designated 8 judges for investigation of "alleged violations committed in the course of their work," and forced 108 judges into retirement. Many judges were poorly trained; some, closely associated with the Government, often rendered decisions favorable to it. The judiciary was hampered further by the Government's frequent reluctance to enforce judgments. Tribal members at times threatened and harassed members of the judiciary.

There are five types of courts: criminal; civil and personal status (covering cases such as kidnapping, carjacking, attacking oil pipelines, and other acts of banditry and sabotage); commercial; and court martial. In recent years, other limited jurisdiction courts have been established under executive authority such as a juvenile and public funds court. The judicial system is organized in a three tiered court structure. At the base are the Courts of First Instance, which are broadly empowered to hear all manner of civil, criminal, commercial, and family matters. A single judge may hear a case in these courts. Decision taken in the Courts of First Instance may be appealed to the Courts of Appeal, of which there is one in each province and one in the capital. Each Court of Appeal includes separate divisions for criminal, military, civil, and family issues. Each division is composed of three judges. Above the Court of Appeals is the Supreme Court.

The Supreme Court, the highest court, is empowered to settle jurisdictional disputes between different courts, hear cases brought against high government officials, and serve as the final court of appeal for all lower court decisions. The Supreme Court has eight separate divisions: constitutional (composed of seven judges including the Chief Justice); appeals' scrutiny; criminal; military; civil; family; commercial; and administrative. The Supreme Court has special panels empowered with determining the constitutionality of laws and regulations.

In addition to the regular hierarchy of courts, there are courts for military, juvenile, tax, customs, and labor matters, whose decisions may be appealed to the Courts of Appeal.

All laws are based on a mixture of old Egyptian laws, Napoleonic tradition, and Shari'a. There are no jury trials. Judges, who play an active role in questioning witnesses and the accused, adjudicate criminal cases. By law, the Government must provide attorneys for indigent defendants in high crime (felony) cases; however, in practice, this did not always occur. By law, prosecutors are a part of the judiciary and independent of the Government; however, prosecutors also have a role in investigating criminal cases. The police are generally weak and play a limited role in developing cases.

The accused are considered innocent until proven guilty. Defense attorneys are allowed to counsel their clients, address the court, and examine witnesses and any relevant evidence. All defendants, including women and minorities, have the right to appeal their sentences. Trials were generally public; however, all courts may con-

duct closed sessions "for reasons of public security or morals." Foreign litigants in commercial disputes complained of biased rulings.

In addition to regular courts, there is a system of tribal adjudication for noncriminal issues; however, in practice, tribal "judges" often adjudicate criminal cases as well. The results carry the same if not greater weight as court judgments. Persons jailed under the tribal system usually are not charged formally with a crime, but stand publicly accused of their transgression.

A special court exists to try persons charged with kidnapping, carjacking, attacking oil pipelines, and other acts considered to be of "public danger" such as banditry and sabotage (*see* Section 1.b.). This court provides the defendants with the same rights provided in the regular courts. It is more efficient and takes better care to enforce those rights than regular courts. There are no military or security tribunals that try civilians.

The Government continued modest judicial reform efforts. During the year, the Ministry of Justice conducted conferences around the country to strengthen the reform process. Some improvements included an increase in judges' salaries, an increase in the Ministry's budget, participation of judges in workshops, and study tours conducted by foreign judicial officials.

There were no reports of prosecutors being dismissed for violating the law. The security services continued to arrest, charge, and submit cases to the prosecutor's office to try persons alleged to be linked to various shootings, explosions, and other acts of violence. Citizens and human rights groups alleged that the security forces and judiciary did not observe due process in most cases.

On May 29, the trial began of 15 suspects accused of Al Qa'ida connections and involvement in 5 terrorist incidents including a plot to assassinate a foreign ambassador and attack foreign embassies. Defendants claimed that they were not allowed full access to the prosecution's evidence. Observers concluded that the trial was conducted according to the law and was generally fair. Sentences ranged from death in one case to 5 to 10 years for others. The Appeals court heard arguments of all the defendants in the case, but no decisions were rendered by year's end.

On July 7, the Government opened its case against six suspects in the 2000 bombing of the USS Cole in Aden. Despite defense claims to the contrary, observers evaluated the conduct of the trial as generally fair. At year's end, defendants in the case had submitted their cases to the Appeals court, which did not render a decision.

The Government continued to maintain that Abdulkarim Al Khaiwani was not a political prisoner since he was convicted lawfully in September for violations of the press law and treason (*see* Section 2.a.). The Government has allowed limited access to him by various NGO groups. Several hundred armed supporters of the Al Houthi rebellion were captured and imprisoned during and shortly after the fighting in Saada. Most were released after participation in the ideological dialogues led by Islamic scholars (*see* Section 1.d.). On October 10, Judge Mohammed Luqman was sentenced to ten years in prison for sedition and fanning sectarian discord. Luqman had publicly opposed the Government's action in Saada against cleric Hussein al Houthi (*see* Section 2.a.).

f. Arbitrary Interference With Privacy, Family, Home or Correspondence.—The Constitution prohibits interference with privacy; however, PSO and MOI police forces routinely searched homes and private offices, monitored telephones, read personal mail, and otherwise intruded into personal matters for alleged security reasons. Such activities were conducted without legally issued warrants or judicial supervision. PSO and MOI police forces sometimes detained relatives of suspects while the suspect was being sought (*see* Section 1.d.). Government informers monitored meetings and assemblies (*see* Section 2.b.).

The Government blocked some sexually explicit websites and some politically oriented sites (*see* Section 2.a.). The Government claimed that it did not monitor Internet usage; however, security authorities in the PSO reportedly read private e mail messages.

The law prohibits arrests or the serving of a subpoena between the hours of sundown and dawn; however, there were reports, in some instances, that persons suspected of crimes were taken from their homes without warrants in the middle of the night. In some cases where a criminal suspect was at large, security forces detained a relative while the suspect was being sought. Detention of the family member continued while the concerned families negotiated compensation for the alleged wrongdoing. Arbitration and mediation by families, tribesmen, and other nongovernmental interlocutors was commonly used to settle such cases.

No citizen may marry a foreigner without permission from the Ministry of Interior (*see* Section 5). This regulation does not carry the force of law, and appears to be enforced irregularly.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—The 10 week Saada rebellion ended on September 10, following the death of the rebel cleric, Badr Eddine Al Houthi. According to media estimates, more than 600 persons were killed; however, the actual number of civilians killed was unknown. There were reports that rebel prisoners were held in incommunicado detention (*see* Section 1.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press "within the limits of the law"; however, the Government did not respect these rights in practice. The country's security apparatus, including the newly formed NSB, often threatened and harassed journalists to influence press coverage. Although most citizens were uninhibited in their private discussions of domestic and foreign policies, they generally were cautious in public, fearing harassment for criticism of the Government. The 1990 Press and Publication Law criminalizes "the criticism of the person of the head of state . . . [that] does not necessarily apply to constructive criticism," the publication of "false information" that may spread "chaos and confusion in the country," and "false stories intended to damage Arab and friendly countries or their relations" with the country.

The Ministry of Information influenced the media through its control of printing presses, subsidies to certain newspapers, and its ownership of the country's sole television and radio outlets. Few newspapers owned their own presses. There are 6 government controlled, 19 independent, and 14 party affiliated newspapers. There are approximately 80 magazines of which 50 percent are private, 30 percent are government controlled, and 20 percent are party affiliated. The Government selected the items to be covered in news broadcasts, and it often did not permit broadcasts critical of the Government. The Government televised parliamentary debates, but edited them selectively to remove criticism.

Press Law regulations specify that newspapers and magazines must apply annually to the Government for licensing renewal, and that they must show continuing evidence of approximately $4,375 (700,000 riyals) in operating capital. There were no reports of denied registrations; however, there were reports that the Government revoked the license of one newspaper and closed down the operations of a magazine. The Government closed one newspaper for allegedly not adhering to a registration deadline. On November 6, the Government informed several press sources that no new press licenses would be issued for an unknown period of time.

In June, the President publicly declared an end to the practice of detaining journalists; however, in practice, detention of journalists continued. During the year, the Government increased pressure on independent and political party newspapers. Newspaper journalists also reported several instances of government harassment including threatening phone calls to them and their families, attacks on their homes, brief imprisonments, and personal surveillance. Journalists practiced self censorship due to fear of government reprisal. The Government also announced that legal proceedings would be taken against anyone who supported the rebel cleric Al Houthi once an extensive investigation on the rebellion was completed. The investigation was ongoing at year's end.

Journalists were tried and sentenced for writing articles critical of the President or reporting on issues sensitive to the regime. On April 14, a prominent journalist was arrested for writing a report about an alleged assassination attempt on the President's son, and sentenced to a fine and a 6 month work ban. On May 17, three journalists received prison sentences from 3 to 5 months, although sentences were held in abeyance pending appeals. There was no further action on the appeal at year's end.

On June 2, the Government closed the Al Shmuu newspaper for three months, and imposed a fine of $270 (50,000 riyals) for publishing a list of banks that owed money to the Central Bank. The editor received a 1 year prison sentence, held in abeyance pending appeal. There was no further action on the appeal at year's end.

On September 5, the Government closed the As Shura newspaper for six months. The editor, Abdulkarim Al Khaiwani, received a 1 year prison sentence for publishing articles critical of the President's handling of the Al Houthi rebellion, succession, and other criticisms of the Government. Despite repeated calls by several local parties, syndicates, NGOs and international groups, the Government refused to release Al Khaiwani. Furthermore, the Government summoned and questioned seven other writers from the same paper. They were informed that they were also subject to possible prosecution. There was no appeal action by year's end.

The Yemeni Journalists Syndicate (YJS) defended freedom of the press and publicized human rights concerns. The YJS has been vocal in condemning recent government actions that closed several publications and imprisoned journalists.

Customs officials confiscated foreign publications regarded as pornographic or objectionable due to religious or political content. During the year, there were some reports that the Ministry of Information delayed the distribution of international Arabic language dailies in an effort to decrease their sales in the country. Authorities monitored foreign publications and banned those deemed harmful to national interests.

Authors were required to obtain a permit from the Ministry of Culture to publish a book and also were required to submit copies to the Ministry. Publishers usually did not deal with an author who had not yet obtained a permit. Most books were approved, but the process was time consuming.

The Government did not impose restrictions on Internet use; however, it blocked access to some sites (*see* section 1.f.).

The Government restricted academic freedom to some extent, claiming it was necessary due to politicization of university campuses. On August 23, the PSO arrested and jailed four members of the University Student Federation in the Mahaweet governorate when the opposition Islah party won a student election.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, in practice, the Government limited this right. The Government claimed that it banned and disrupted some demonstrations to prevent them from degenerating into riots and violence. In February, authorities forcibly removed, arrested, and incarcerated 112 Ethiopian men, women, and children who were staging a sit in outside the U.N. High Commission for Human Rights (OHCHR) headquarters in Sana'a. The women and children, who comprised approximately half of the protesters, were released after 2 days; some of the men were incarcerated for as long as a month.

The Government required a permit for demonstrations, which it issued routinely. Government informers monitored all meetings and assemblies.

On June 6, authorities fired shots into the air to disburse a crowd of striking pilots (*see* Section 6.b.). On September 3 and September 6, the authorities blocked two planned protests against the Government's handling of the Al Houthi insurgency (*see* Section 1.a.). On November 28, a member of the security forces shot into a crowd of protesters in front of an Aden court. One person was killed and another wounded. The protesters were monitoring the trial of a member of an intelligence agency who was accused of murder. Police claimed that the crowd was out of control. There was no further action on the incident by year's end.

The Constitution provides for the freedom of association, and the Government usually respected this right in practice. In some instances, the GPC ruling party attempted to control professional associations and NGOs by influencing internal elections (*see* Section 6.b.).

Associations must obtain an operating license, usually a routine matter, from the Ministry of Social Affairs or the Ministry of Culture.

The Government cooperated to some extent with NGOs, although NGOs complained that there was a lack of response to their requests for more funding. According to NGO professionals, the Government's limited responsiveness was due to a lack of material and human resources.

All political parties must be registered in accordance with the Political Parties Law, which stipulates that each party must have at least 75 founders and 2,500 members (*see* Section 3).

c. Freedom of Religion.—The Constitution provides for freedom of religion; however, the Government limited this right in some cases. The Constitution declares that Islam is the state religion.

Followers of other religions were free to worship according to their beliefs and to wear religiously distinctive ornaments or dress; however, Shari'a forbids conversion from Islam and prohibits non Muslims from proselytizing. The Government requires permission for the construction of all places of worship, and prohibits non Muslims from holding elected office.

Under Islam, the conversion of a Muslim to another religion is considered apostasy, which the Government interprets as a crime punishable by death. There were no reports of cases in which the crime was charged or prosecuted by authorities.

Official policy does not prohibit or prescribe punishment for the possession of non Islamic religious literature.

Services for Catholic, Protestant, and Ethiopian Christians were held in various locations without government interference.

Public schools provided instruction in Islam, but not in other religions; however, most non Muslims were foreigners who attended private schools.

The Government has taken steps to prevent the politicization of mosques in an attempt to curb extremism. This included the monitoring of mosques for sermons

that incited violence or other political statements considered harmful to public security. Private Islamic organizations maintained ties to pan Islamic organizations and, in the past, have operated private schools; however, the Government monitored their activities. Through its religious ministry, the Government sponsored two events: In April, approximately 350 Imams attended training against Islamic extremism. From June 20–24, more than 270 Muslim clerics, scholars, and ministers of religious affairs from Muslim states discussed ways to promote moderate and tolerant aspects of Islam, and to disassociate from ideas of extremism and terrorism.

Following unification of North and South Yemen in 1990, owners (including religious institutions) of property expropriated by the Communist government of the former People's Democratic Republic of Yemen (PDRY) were invited to seek restitution of their property. Implementation of the process has been extremely limited, and very few properties have been returned to previous owners.

Shari'a based law and social customs discriminated against women (*see* Section 5).

There were reports that citizen of religious minorities were prohibited from participating in the political process (*see* Section 3).

There were no reports of anti-Semitic acts against Jews or Jewish property. The country's once sizable Jewish population has largely emigrated. The Government issued a press release in June accusing Jews living in the North of backing the Al Houthi rebellion in Saada. The Government shortly thereafter retracted the statement, which had been carried by the local media. After the ruling party tried to put forward a Jewish candidate, the General Election Committee adopted a policy barring all non Muslims from running for Parliament (*see* Section 3). There were no legal restrictions on the few hundred Jews who remained, although there were traditional restrictions on places of residence and choice of employment (*see* Section 5).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, Repatriation, and Exile.—The Constitution provides for these rights, and the Government respected them, with some restrictions. The Government placed some limits on the freedom of movement of women, foreigners, and tourists. The two latter groups were required to obtain government permission before traveling. In practice, the Government did not obstruct domestic travel; however, the army and security forces maintained checkpoints on major roads.

In certain areas, armed tribesmen occasionally either manned their own checkpoints or operated alongside military or security officials and subjected travelers to physical harassment, bribe demands, or theft.

The Government did not routinely obstruct foreign travel or the right to emigrate and return. Although not required by law, women customarily were asked if they had permission from a male relative before applying for a passport. Immigrants and refugees traveling within the country often were required by security officials at government checkpoints to show that they possessed resident status or refugee identification cards.

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

During the year, the Government continued to deport an unknown number of foreigners, many of whom were studying at Muslim religious schools, and believed to be in the country illegally. The Government claimed that these persons were suspected of inciting violence or engaging in criminal acts by promoting religious extremism. The Government deported them using existing laws that require all foreigners to register with the police or immigration authorities within a month of arrival in the country.

Although the law does not include provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, there were no reports of the forced return of persons to a country where they feared persecution. The country is party to the convention and the protocol. The Government continued to grant refugee status to Somalis who arrived in the country after 1991.

The Government cooperated with the U.N. High Commissioner for Refugees in assisting refugees and asylum seekers. At times, authorities arrested without charge and imprisoned an unknown number of undocumented refugees (*see* Section 1.c.).

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

The Constitution provides citizens with the right to change their government; however, there were limitations in practice. By law, the Government is accountable to the Parliament; however, the Parliament is not an effective counterweight to ex-

ecutive authority. Decision-making and effective political power rests in the hands of the executive branch, particularly the President. In addition, the Constitution prohibits the establishment of parties that are contrary to Islam, oppose the goals of the country's revolution, or violate the country's international commitments.

The President appoints the Prime Minister, who forms the Government. The cabinet consists of 35 ministers. Parliament is elected by universal adult suffrage. International observers judged the April 2003 parliamentary elections to be "generally free and fair"; however, there were some problems with underage voting, confiscation of ballot boxes, voter intimidation, and vote buying. In addition, international observers reported that some officials were allegedly prevented from approving results that gave victory to opposition parties. There were reports that supporters of rival candidates shot and killed at least three persons and wounded another. No arrests occurred. President Saleh's ruling GPC party maintained its large majority in Parliament. Approximately 75 percent of those eligible voted (8 million) and 43 percent of voters were women.

Ali Abdullah Saleh, the President and leader of the GPC, was elected to a 5 year term in the country's first nationwide direct presidential election in 1999, winning 96.3 percent of the vote. In 2001, the 5 year term was amended to a 7 year term. The Constitution provides that the President is elected by popular vote from at least two candidates endorsed by Parliament. Despite the fact that the President's sole opponent was a member of his own party, NGOs, foreign embassies, and U.N. Development Program (UNDP) observers found the election free and fair. The candidate selected by the leftist opposition coalition did not receive the minimum number of required votes from the GPC dominated Parliament.

The Constitution permits Parliament to initiate legislation; however, to date it has not done so. In addition, the Government routinely consulted senior parliamentary leaders when it drafted important national legislation. Parliament debates policies that the Government submits. Although the GPC, enjoyed an absolute majority, Parliament has rejected or delayed action on major legislation introduced by the Government, and has forced significant modification. The Parliament also has criticized the Government for some actions, including the issue of detainees, corruption, and aspects of the Government's counter terrorism campaign. Ministers frequently were called to Parliament to defend actions, policies, or proposed legislation, although they sometimes refused to appear. At times, parliamentarians were sharply critical during such sessions.

There were several political parties. The GPC dominated Parliament, and Islah was the only other significant party. All parties must be registered in accordance with the Political Parties Law, which stipulates that each party must have at least 75 founders and 2,500 members. Some government opponents contended that they were unable to organize new parties because of the prohibitively high legal requirements regarding the minimum number of members and leaders. The Yemeni Socialist Party (YSP) and several smaller parties returned to active political life by participating in the 2001 local elections, constitutional referendum, and the April 2003 parliamentary election.

The law mandates that political parties should be viable national organizations, and cannot restrict their membership to a particular region. Parties based on regional, tribal, sectarian, class, professional, gender, or racial identities are not permitted. The Government provided financial support to political parties, including a small stipend to publish their own newspapers.

Corruption was a problem, particularly in the judicial branch. During the year, Parliament became more active in areas of economic reform and corruption, winning a major victory by voting to cancel a suspect oil deal arranged by the Ministry of Oil, and calling ministers to account for their actions. Parliament continued to call on the executive branch to reform the administration of government, including decentralization of finances, fighting corruption, and providing clear and transparent processes for government contracts.

Formal government authority is centralized in Sana'a; many citizens, especially in urban areas, complained about the inability of local and governorate entities to make policy or resource decisions. The Local Authority Law decentralizes authority by establishing locally elected district and governorate councils, headed by government appointed governors. The first elections for the councils were held concurrently with the constitutional referendum in 2001. At year's end, a few local councils were still not constituted, and many continued to lack sufficient resources. In some governorates, tribal leaders exercised considerable discretion in the interpretation and enforcement of the law.

The law requires a degree of transparency and public access to information, and the Press and Publications Law provides journalists with some access to government reports and information; however, in practice, the Government offers few procedures

to ensure transparency, open bidding, or effective competition in awarding government contracts. Detailed accounting of expenditures rarely occurs in a timely fashion. The Government provided limited information on websites; however, most citizens did not have access to the Internet.

Although women voted and held office, cultural norms rooted in religious interpretation often limited their exercise of these rights, and the number of women in government and politics did not correspond to their percentage of the population (*see* Section 5). An increasing number of women held senior leadership positions in the Government.

During the year, a group of women from the major parties secured agreement from the Supreme Committee for Elections and Referenda (SCER) to establish a Women's Department within the SCER.

Many Akhdam, a small ethnic minority, who may be descendants of African slaves, did not participate in the political process due to socioeconomic factors. All non Muslims are banned from running for Parliament. This policy of the General Election Committee was reached in 2001 after the ruling GPC party tried to run a Jewish candidate. There were no reports that persons with disabilities were prohibited from participating in the political process.

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

The Law for Associations and Foundations regulates the formation and activities of NGOs. Domestic and international human rights groups generally investigated and published their finding on human rights cases without restriction. Government officials were somewhat cooperative and responsive to their views; however, NGOs reported there was often a lack of response to their requests. During the year, several government sponsored initiatives, particularly those promoted by the Ministry of Human Rights, were aimed at furthering cooperation with NGOs. There were reports that a few local NGOs were not invited to participate in some of these activities.

Several human rights NGOs continued to operate throughout the year. Groups included the Human Rights Information and Training Center, the National Organization for Defending Rights and Freedoms, the Sisters Arab Forum, and the Civic Democratic Forum. Although some NGOs were supported by the Government or ruling party, others were clearly supported by opposition parties or fully independent. A few NGOs practiced self censorship.

The Government gives AI, Human Rights Watch, the Parliament of the European Union, and the Committee to Protect Journalists access to officials, records, refugee camps, and prisons (*see* Section 1.c.). The ICRC maintained a resident representative to inspect prisons during the year, although access to PSO prisons was restricted.

The Ministry of Human Rights, established in 2003, attempted to raise awareness of human rights via public information campaigns, training of human rights activists, and participation in numerous conferences. Through a newly established complaint mechanism, the Ministry resolved an unknown number of human rights cases out of approximately 500 submissions, primarily through coordination and correspondence with other ministries and human rights NGOs. Observers concluded that the new system was operational and had great potential, but that it was too early to evaluate its effectiveness.

Parliament has an active committee on human rights; however, some members complained the committee did not operate independently due to personal conflicts of interest by its leadership. During the year, the committee addressed issues of prison conditions, torture, and child trafficking. The committee issued unofficial reports citing the causes of child trafficking.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equal rights and equal opportunity for all citizens; however, discrimination based on race, sex, and disability existed. Entrenched cultural attitudes often affected women's ability to enjoy equal rights.

Women.—The law provides for protection against violence against women; however, the provision rarely was enforced. Although spousal abuse reportedly was common, it generally was undocumented. Violence against women and children was considered a family affair, and usually not reported to the police. Due to social norms and customs, an abused woman was expected to take her complaint to a male relative (rather than the authorities) to intercede on her behalf, or provide her sanctuary if required. A small shelter for battered women in Aden assisted victims, and telephone hotlines operated with moderate success in Aden and Sana'a.

The law prohibits rape; however, it was a problem. The punishment for rape is imprisonment up to 15 years; however, it was seldom imposed.

The press, women's rights activists, and the Ministry for Human Rights continued to investigate or report on violations of women's rights. During the year, NGOs, in conjunction with each other and the Ministry of Human Rights, sponsored several women's rights conferences dealing with issues such as violence against women, honor killings, and increasing the political representation of women.

The law prohibits female genital mutilation (FGM); however, it was practiced to a limited degree. The prevalence of the practice varied substantially by region. Government health workers and officials actively continued to discourage the practice.

Prostitution is illegal; however, it occurred. The punishment for prostitution is imprisonment of up to 3 years or a fine. In a new phenomenon, there were widespread reports of Iraqi women traveling to the country to work in the sex industry (*see* Section 5, Trafficking in Persons).

The Penal Code allows leniency for persons guilty of committing a "crime against honor," a violent assault or killing committed against females for perceived immodest or defiant behavior. Legal provisions regarding violence against women state that an accused man should be put to death for killing a woman. However, a husband who kills his wife and her lover may be fined or imprisoned for a term of 1 year or less.

The social custom and local interpretation of Shari'a discriminated against women. Men were permitted to take as many as four wives, although very few did so. By law, the minimum age of marriage is 15 years; however, the law was not widely enforced, and some girls married as early as age 12 (*see* Section 5, Children). The practice of bride price payments was widespread, despite efforts to limit the size of such payments.

The law states that the wife must obey the husband. Husbands may divorce wives without justifying their action in court. A woman has the legal right to divorce; however, she must provide a justification, and there are a number of practical, social, and financial negative considerations.

Women who seek to travel abroad must customarily obtain permission from their husbands or fathers to receive a passport, and to travel (*see* Section 2.d.). Male relatives were expected to accompany women when traveling; however, enforcement of this requirement was not consistent. Some women reported that they were able to travel freely without male accompaniment.

Shari'a permits a Muslim man to marry a non Muslim woman; however, no Muslim woman may marry a non Muslim. Women do not have the right to confer citizenship on their foreign born spouses; however, they may confer citizenship on children born of foreign born fathers. The foreign wife of a male citizen must remain in the country for two years in order to obtain a residence permit.

According to a Ministry of Interior regulation, any citizen who wishes to marry a foreigner must obtain the permission of the Ministry. A woman wishing to marry a foreigner must present proof of her parents' approval to the Ministry of Interior. A foreign woman who wishes to marry a male citizen must prove to the Ministry that she is "of good conduct and behavior," and "is free from contagious disease."

The Government continued to support women's rights as exemplified by local law, and the expansion of the public role of women. The President and Government strongly encouraged women to vote and supported several NGO sponsored conferences to increase the role of women in political life.

According to 2002 government statistics, approximately 67.5 percent of women were illiterate, compared with approximately 27.7 percent of men. The fertility rate was 6.5 children per woman. Most women had little access to basic health care.

In general, women in the South, particularly in Aden, were better educated and had somewhat greater employment opportunities than their northern counterparts. However, since the 1994 war of secession, the number of women in government in the South has declined, due to cultural pressure from the North, as well as stagnation of the economy. According to the UNDP, female workers accounted for 19 percent of the paid labor force. In 2003, the Government amended a law to require that every public or private institution employing more than 50 female workers must provide assistance with the care of their children; however this regulation was not enforced.

The Labor Law stipulates that women are equal to men in conditions of employment and employment rights; however, female activists and NGOs reported that discrimination was a common practice in both the public and private sectors. Mechanisms to enforce equal protection were weak or nonexistent.

There were no laws prohibiting sexual harassment; however it was a problem in the workplace.

The National Women's Committee completed a report on the United Nations Beijing +10 Conference for women's rights in the country. It also completed a second phase of a review of discriminatory laws against female citizens, and began an initiative to support a quota system.

The NGO Women Rights and Social Justice specialized in influencing policy makers to counter prejudice against women. It held its third symposium titled "Women's Rights in Islam."

The Sisters Arab Forum held a regional conference on strengthening women's rights vis-á-vis the 1994 Beijing Conference. Women from across the region attended.

There were a number of NGOs working for women's advancement, including: the Social Association for Productive Families, which promoted vocational development for women; the Women and Children's Department of the Center for Future Studies, which organized seminars and published studies on women and children; the Woman and Child Development Association, focused on health education and illiteracy; the Yemeni Council for Motherhood and Childhood, which provided micro credit and vocational training to women; and the Zahara Women's Association for Welfare, which conducted voter education and grassroots education.

Children.—While the Government asserted its commitment to protect children's rights, it lacked the resources necessary to ensure adequate health care, education, and welfare services for children. Malnutrition was common. According to 2003 UNDP statistics, the infant mortality rate was 71 deaths per 1,000 births. Male children received preferential treatment and had better health and survival rates.

The law provides for universal, compulsory, and free education from age 6 to 15 years; however, compulsory attendance was not enforced. Many children, especially girls, did not attend primary school. According to a 2003 UNDP report, average student attendance in primary schools was 76 percent for boys and 45 percent for girls. In rural areas, 52 percent of children attended school, whereas the rate in urban areas was 81 percent.

Child marriage was common in rural areas. The law requires that a girl be 15 years of age to marry; however, it was not enforced, and marriages of girls as young as age 12 occurred (*see* Section 5, Women).

The law does not prohibit child abuse. Although exact figures were lacking, it was a widespread problem.

FGM was practiced on a limited scale (*see* Section 5, Women).

Child labor was a problem. The Child Rights Law prohibits child labor; however, the law has not been implemented and children as young as 4 years of age worked in workshops, agriculture, or as street vendors (*see* Section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were credible reports of trafficking in women and children. The law, which does not differentiate between children or adult victims, allows for a prison sentence of up to 10 years for anyone convicted of trafficking in persons. During the year, one child trafficker received a 3 year prison sentence. Other laws forbid and severely punish kidnapping, sexual assault, and facilitation of prostitution. The Child Rights law mandates the protection of all children from economic and sexual exploitation.

Trafficking was a relatively new phenomenon in the country, and there were no reliable statistics available. During the year, there were reports of Iraqi women trafficked to the country for the purpose of prostitution. As the problem of sex trafficking was new, authorities were unable to provide information on the scope and methods of sex trafficking, but they suspected that many women were trafficked to the country by organized criminal syndicates. The Government took steps to address this problem by instituting a new visa requirement for Iraqi citizens traveling to the country.

Press reports claimed that children were trafficked out of the country to work as street beggars, domestic help, or as camel jockeys in oil rich Gulf States at a rate of approximately 200 children per week. The Government increased its efforts to combat child trafficking. Parliament sent numerous delegations to areas known as points of origin for child trafficking in order to investigate the problem. Authorities increased the number of arrests of alleged traffickers and prosecuted two traffickers. The Government worked with UNICEF on a study to examine and increase its understanding of the problem of trafficking in children. Government investigations revealed that extreme poverty was the primary motivation behind child trafficking and that the victims' families were almost always complicit. There were no information campaigns to raise awareness of the problem. A lack of resources, skills, and awareness hindered government action against trafficking in persons.

Persons With Disabilities.—There was discrimination against persons with mental and physical disabilities in education and employment. The Government mandated

the acceptance of persons with disabilities in universities, exempted them from paying tuition, and required that schools be made more accessible to persons with disabilities; however, it was unclear to what extent these laws have been implemented. There is no national law that mandates the accessibility of buildings for persons with disabilities. Public awareness regarding the need to address the concerns of persons with disabilities appeared to be increasing.

During the year, the Handicapped Society, the Challenge Society, the Yemeni Development Foundation, Al Saleh Social Establishment, and the Islamic World Handicap and Training Council provided assistance to persons with disabilities, including rehabilitation assistance, vocational training, cultural and sports activities, and collaborative workshops on how to address the issue of disabilities in the country. The Government's Social Fund for Development, administered by the Ministry of Social Affairs, provided limited basic services to assist persons with disabilities.

At times, authorities arrested without charge and imprisoned persons with mental disabilities (*see* Section 1.c.).

National/Racial/Ethnic Minorities.—The Akhdam (an estimated 2 to 5 percent of the population) were considered the lowest social class. They lived in poverty and endured persistent social discrimination. The Government's Social Fund for Development also provided basic services to assist the group.

Human rights groups have reported that some immigrants of African origin had difficulty in securing Ministry of Interior permission to marry citizens (*see* Section 1.f.).

Tribal violence continued to be a problem during the year, and the Government's ability to control tribal elements responsible for acts of violence remained limited. Tensions over land or sovereignty in particular regions, which periodically escalated into violent confrontations, continued between the Government and a few tribes.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and law provide that citizens have the right to form and join unions; however, this right was restricted in practice. The Government sought to place its own personnel in positions of influence in unions and trade union federations.

The law permits trade unions to establish only if federated within the General Federation of Trade Unions of Yemen (GFWTUY), the sole national umbrella organization. The GFWTUY claimed approximately 350,000 members in 14 unions and denied any association with the Government; however, it worked closely with the Government to resolve labor disputes through negotiation.

Only the General Assembly of the GFWTUY may dissolve unions. The law provides equal labor rights for women. The law does not stipulate a minimum membership for unions or limit them to a specific enterprise or firm. Thus citizens may associate by profession or trade.

The law generally protects employees from antiunion discrimination. Employers do not have the right to dismiss an employee for union activities. Employees may appeal any disputes, including cases of antiunion discrimination, to the Ministry of Social Affairs and Labor. Employees also may take a case to the Labor Arbitration Committee, which is chaired by the Ministry of Labor, and is composed of an employer representative and a GFWTUY representative. Such cases often were disposed favorably toward workers, especially if the employer was a foreign company.

b. The Right to Organize and Bargain Collectively.—The labor law applies to all workers except public servants, foreign workers, day laborers, and domestic servants. The law provides workers with the right to organize and bargain collectively. The Government permitted these activities; however, it sought to influence them by placing its own personnel inside groups and organizations. The Ministry of Labor has veto power over collective bargaining agreements, a practice criticized by the International Labor Organization (ILO). Several such agreements existed. Agreements may be invalidated if they are "likely to cause a breach of security or to damage the economic interests of the country." Unions may negotiate wage settlements for their members, and may resort to strikes or other actions to achieve their demands. Public sector employees must take their grievances to court.

In some instances, the GPC ruling party attempted to control professional associations and NGOs by influencing internal elections (*see* Section 2.a.). In April, the Medical Association of Sana'a elected a chairman associated with the opposition Islah party, the Government refused to accept the results of the election and formed an alternative medical association.

The labor law provides for the right to strike only if prior attempts at negotiation and arbitration fail. The proposal to strike must be submitted to at least 60 percent of all concerned workers, of whom 25 percent must vote in favor. Permission to

strike also must be obtained from the GFWTUY. Strikes for explicit "political purposes" were prohibited.

On June 6, police fired into the air to disburse a crowd of national airline pilots, who were striking for higher wages; no injuries were reported. There were some peaceful strikes during the year.

There were reports that private sector employers discriminated against union members through transfers, demotions, and dismissals.

There were no export processing zones in operation.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Child Rights Law prohibits child labor; however, it has not been effectively implemented.

The established minimum age for employment was 15 years in the private sector and 18 years in the public sector. By special permit, children between the ages of 12 and 15 years could work. The Government rarely enforced these provisions, especially in rural and remote areas. The Government also did not enforce laws requiring 9 years of compulsory education for children.

Child labor was common, especially in rural areas. Many children were required to work in subsistence farming due to family poverty. Even in urban areas, children worked in stores and workshops, sold goods and begged on the streets. Many children of school age worked instead of attending school, particularly in areas in which schools were not easily accessible.

The Child Labor Unit at the Ministry of Labor was responsible for implementing and enforcing child labor laws and regulations; however, the unit's lack of resources hampered enforcement.

The Ministry of Labor estimated that there are close to half a million working children, ages 6 to 14 year, and that working children equaled 10 to 15 percent of the total work force. The Government was an active partner with the ILO's International Program to Eliminate Child Labor. During the year, this program offered remedial education, vocational training, counseling, and reintegration of child laborers into schools. In September, the Government entered into a grant agreement with a foreign government aimed at combating the worst forms of child labor in the country.

e. Acceptable Conditions of Work.—There was no established minimum wage for any type of employment. The labor law provides equal wages for workers and civil servants. Private sector workers, especially skilled technicians, earned a far higher wage. The average daily wage did not provide a decent standard of living for a worker and family. The minimum civil service wage during the year did not meet the country's poverty level.

The law specifies a maximum 48 hour workweek with a maximum 8 hour workday; however, many workshops and stores operated 10 to 12 hour shifts without penalty. The 35 hour workweek for government employees was 7 hours per day from Saturday through Wednesday.

The Ministry of Labor is responsible for regulating workplace health and safety conditions. The requisite legislation for regulating occupational health is contained in the labor law; however, enforcement was weak to nonexistent. Many workers regularly were exposed to toxic industrial products and developed respiratory illnesses. Some foreign owned companies and major manufacturers implemented higher health, safety, and environmental standards than the Government required. Workers have the right to remove themselves from dangerous work situations and may challenge dismissals in court. These laws were generally respected in practice.

SOUTH ASIA

AFGHANISTAN

Afghanistan oversaw the ratification of a new Constitution on January 4. Hamid Karzai was elected President in the country's first presidential election held on October 9, which was deemed acceptable by the majority of its citizens. Although a few major provincial centers remained under the effective control of regional commanders for most of the year, the Government made progress in asserting its authority, and the commanders acknowledged the central government's legitimacy. Karzai dismissed and appointed new governors to many of the 34 provinces. Judicial power rested with the Supreme Court. Under the new Government, the rule of law applied throughout the country; however, in practice, recognition of the rule of law, particularly outside of Kabul, was limited. The nominally independent judiciary was accused by some of corruption and being subject to political pressure from officials and commanders, especially at the provincial and local levels. The judicial system operated on an intermittent basis during the year, while the Government and the international community trained judges and lawyers and reconstructed courthouses.

Police, under the Ministry of Interior, had primary responsibility for internal order; however, civilian authorities did not always maintain effective control of security forces. Some local and regional commanders maintained considerable power, as the Government was not in a position to exercise effective control nationwide. NATO retained command of the International Security Assistance Force (ISAF) in Kabul; its U.N. Security Council mandate was extended to October 13, 2005. Some members of security forces committed serious human rights abuses.

The economy, based primarily on agriculture and animal husbandry, is market based. A July estimate found the population to be approximately 28.5 million, and the International Monetary Fund (IMF) estimated the economic growth rate at 7.5 percent for the year. Wages kept pace with inflation. Persistent drought, low literacy, and slow recovery from over two decades of war were a strain on the economy. The country remained heavily dependent on foreign assistance, and approximately 50 percent of the Government's operating budget came from external donor support. According to the World Food Program (WFP), some 1.4 million citizens have been affected by continued drought and crop failures, and the United Nations Office on Drugs and Crime (UNODC) reported in November that opium cultivation increased by two-thirds and spread to all 32 provinces of the country. According to the UNODC report, narcotics became the main factor of economic growth, involving 10 percent of the population.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. There were instances where local security forces and police committed extrajudicial killings, and officials used torture in prisons. Efforts to bring to justice serious human rights offenders were often ineffective; impunity from the law remained a serious concern. Punishment of officials usually took the form of administrative actions rather than prosecution. Prolonged pretrial detention and poor prison conditions led to deteriorating health conditions and death among some prisoners. The Government generally provided for freedom of speech, the press, assembly, association, religion, and movement; however, problems remained. Violence—including rape and kidnapping—and societal discrimination against women and minorities continued. Trafficking of persons was a problem. There was widespread disregard for, and abuse of, internationally recognized worker rights. Child labor continued to be a problem.

Terrorist attacks and severe violence continued during the year. Taliban, local commanders, and other antigovernment forces threatened, robbed, attacked, and occasionally killed local villagers, political opponents, and prisoners. Some areas outside Kabul were not under the Government's control. Increased Taliban, al-Qa'ida, and other antigovernment groups' activity, particularly in the south and southeast,

added to security concerns. U.N. agencies and nongovernmental organization (NGOs) temporarily cancelled or curtailed their activities in these and other areas at various times during the year.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were reports of politically motivated or extrajudicial killings by the Government or its agents. For example, on August 14, 17 bodies were discovered at the Shindand market place with evidence that 6 of the 17 individuals, including a 60-year-old man, were tortured and beheaded. An investigation was launched and remained open at year's end.

On January 2, officials hanged four bandits in the central bazaar of Farah when they were arrested after a gunfight with government forces. In March and April, while in police custody, four detainees in Herat were killed as the result of torture, according to the Afghan Independent Human Rights Commission (AIHRC).

During the year, no trial date was set for police officers arrested for killing two demonstrators in Kabul in 2002.

There were no known politically motivated killings by the Government or its agents; however, factional forces killed civilians during the fight against Taliban supporters.

The Government and government-allied coalition forces carried out raids and attacks on alleged militant settlements that resulted in the deaths of civilians. On September 17, government-allied coalition troops accidentally killed one Afghan youth and injured another during a clash with militants in Uruzgan Province (*see* Section 1.g.).

The International Committee of the Red Cross (ICRC) reported that landmines and unexploded ordnance killed or wounded 847 persons during the year (*see* Section 1.g.).

Rebel forces, including Taliban, al-Qa'ida, and Hizb-e-Islami Gulbuddin, killed numerous civilians during their attacks. There were reports that the Taliban and its allies summarily executed NGO workers and other persons. Attacks on international organizations, on international aid workers and their local counterparts, and on foreign interests and nationals increased significantly (*see* Sections 1.g. and 4).

In many areas, the lack of an effective police force, poor infrastructure and communications, instability, and insecurity made it difficult to investigate unlawful killings, bombings, or civilian deaths, and there were no reliable estimates of the numbers involved.

On June 29, authorities announced that one man was sentenced to death for the 2002 assassination of Vice President and Public Works Minister Haji Abdul Qadir; two other accomplices were given jail sentences. There were no developments in other 2002 cases.

The Government made few efforts to bring to justice those persons responsible for the most serious abuses committed during the past 24 years (*see* Section 4).

b. Disappearance.—Abductions and disappearances occurred during the year. On October 28, armed militants abducted three U.N. workers. The three were released in Kabul in November, and in December, Pakistani security forces arrested Haji Fazal Karim, chief of the militant group Jaish-al Muslimeen, in Karachi, for the kidnapping. The case remained open at year's end.

The whereabouts of most of the women and girls who were kidnapped or abducted by the Taliban between 1998 and 2001, and of those persons arrested by the Taliban for political reasons, remained unknown at year's end.

In January, the Governor of Herat and the AIHRC claimed that three policemen taken from the Herat central police district and held without charge for several months in July 2003 were released. The AIHRC alleged that the three were beaten while in custody. There was no judicial follow up. Local Shindand district commander Amanullah Khan denied any responsibility in the December 2003 abduction of a commander of Herat's 21st Division, based in Shindand.

There continued to be reports of abduction by Taliban, allied militias, and unknown gunmen. The whereabouts of an international NGO driver abducted by the Taliban on January 5 remained unknown. The driver for a mine-clearance agency who was abducted by gunmen in Ghazni in November 2003 was released to his family. There were numerous reports of kidnapped—and possibly trafficked—children during the year (*see* Section 5, Trafficking).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, there were reports of some abuses. For example, there were continued reports that some local police authorities

in Herat and other locations routinely employed torture on detainees (*see* Section 1.a.). There was no followup to the 2002 incident in which Herat Governor Ismail Khan's security forces arrested journalist Mohammad Rafiq Shahir and reportedly beat him severely.

In March, Human Rights Watch (HRW) claimed that coalition forces operating in the country arbitrarily detained civilians and committed cruel, inhumane, and degrading acts against detainees.

Security forces reportedly used excessive force during their fight against Taliban and al-Qa'ida remnants, including looting, beating, and torturing of civilians. Violence and instability hampered relief and reconstruction efforts in different parts of the country and led to numerous human rights abuses.

Prison conditions remained poor, and there were reportedly many other secret or informal detention centers in the country (*see* Section 1.d.). Prisoners lived in overcrowded, unsanitary conditions in collective cells and were not sheltered adequately from severe winter conditions. Prisoners reportedly were beaten, tortured, or denied adequate food. The Justice Ministry's assumption of prison management from the Interior Ministry in March 2003 improved conditions marginally. The humanitarian NGO Emergency reported in January that infectious diseases were common among prisoners.

A number of regional leaders, particularly Ismail Khan in Herat and General Dostum in Sheberghan, maintained secret or unofficial prisons that most likely held political detainees (*see* Section 1.d.). In May, following a prison riot and hunger strike, most of the approximately 900 Taliban and Pakistani prisoners at Sheberghan Prison were moved to Pul-e-Charkhi Prison in Kabul. In September, President Karzai ordered from this group the release of 416 ex-combatants, mainly Taliban, as well as 433 Pakistanis.

According to the AIHRC, six prisoners died in prison during the year, two from illness, and four others from injuries received during fights.

Approximately 4,500 convicts were held in 32 government-run prisons across the country. There were 15 correctional centers for juveniles, and approximately 8 women's detention centers. Men and women were housed in separate facilities. Living conditions of all prisons did not meet international standards, and conditions in women's facilities were worse than in men's facilities. Children under 12 years were incarcerated with their mothers. Juveniles (under 18 years) were detained in juvenile correctional facilities; however, juveniles charged with murder were detained in adult facilities but were assigned to a separate area within the facilities. There were no pretrial detention facilities.

The Government permitted the International Committee of the Red Cross (ICRC) to visit all prisons that the Government controlled, and the ICRC conducted such visits during the year; however, the ICRC alleged that it lacked full and transparent access to some prisoners. The AIHRC monitored prison conditions regularly during the year, and independently of the Ministry of Justice.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest or detention; however, arbitrary arrest and detention were serious problems. Legal and law enforcement institutions operated unevenly throughout the country, and justice was administered on an intermittent basis according to a mixture of codified law, Shari'a law, and local custom.

Human rights groups reported that local police authorities extorted bribes from civilians in return for their release from prison or to avoid arrest. The Afghan National Police (ANP) had approximately 26,000 trained policemen and women at year's end, roughly half of the Government's target of 62,000 ANP. Judicial and police procedures and practices for taking persons into custody and bringing them to justice followed no established code and varied depending on the area and local authorities. Some areas had a more formal judicial structure than others. Limits on lengths of pretrial detention were not respected. The AIHRC received several hundred reports of pretrial detention during the year. According to the laws, police can detain suspects for up to 24 hours, primary and secondary courts can detain for up to 2 months, and the final court can detain for up to 5 months.

Private prisons were a problem. The country's intelligence agency ran at least two prisons, and there were unconfirmed reports of private detention facilities around Kabul and in northern regions of the country. Representatives of international agencies and the AIHRC were unable to gain access to these prisons during the year. The AIHRC reported numerous cases of arbitrary arrest and detention. For example, in Ghazni Province, Governor Asadulah arbitrarily arrested seven suspects in December and did not allow anyone to visit these detainees. No charges were filed, and these detainees remained incarcerated at year's end. During the year, the Governor of Helmand arbitrarily arrested a suspect and detained him for 4 months. At

year's end, no charges were filed against the suspect, and the suspect remained in prison at year's end.

The Constitution provides for access to legal counsel (*see* Section 1.e.). The country's law limited pretrial detention to 9 months; however, there were documented cases where suspects were held for longer periods. There were credible reports that some detainees were tortured to elicit confessions while awaiting trial.

The AIHRC confirmed cases of troops loyal to Commander Ismatullah in Laghman Province looting and forcing women into marriages; however, allegations of rape were not substantiated (*see* Section 5).

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this right in practice. The Government, in accordance with Islamic principle and international standards, assigned the Government to reorganize and reform its judiciary system, and the Government, with assistance from the international community, continued to work on reestablishing a functioning nationwide judicial system. Many municipal and provincial authorities relied on some interpretation of Islamic law and traditional tribal codes of justice. The mandate of the Judicial Reform Commission expired during the year, and its responsibilities shifted to the Ministry of Justice.

In the cities, courts decided criminal and civil cases. The Supreme Court was located in Kabul. There was a National Security Court that tried terrorist and other cases, although it was unclear how the new National Security Courts functioned in practice. In cases involving murder and rape, convicted prisoners generally were sentenced to execution, although relatives of the victim could instead choose to accept other restitution or could enforce the verdict themselves. Decisions of the courts could be appealed. The courts reportedly heard cases in sessions that lasted only a few minutes.

In rural areas, local elders and shuras (community councils) were the primary means of settling criminal matters and civil disputes and sometimes allegedly levied unsanctioned punishments, including flogging or death by stoning, as well as ordering, in murder cases, the defendant to provide young girls in marriage to the victims' family. In such proceedings, the accused typically had no right to legal representation, bail, or appeal.

The courts' procedures did not meet internationally accepted standards for fair trials. The administration and implementation of justice varied from area to area, as many judges were uneducated or poorly trained and based their judgments on a combination of their personal understanding of Islamic law and tribal codes of honor. Low pay was a factor in reports of widespread corruption. Insecurity and pressure from public officials and the family of the accused also threatened judicial impartiality.

During the year, codification and harmonization of laws started; however, the Judicial Reform Commission (JRC) and Ministry of Justice lacked the capacity to handle the large volume of new and amended legislation.

Defendants had the right to an attorney under the law, but this right was inconsistently applied. Citizens' lack of awareness of their constitutional rights was a problem, and there was no functioning public defender system. Juries were not used, and defendants were not allowed to confront or question witnesses.

A number of regional leaders were suspected of holding political prisoners, but there were no reliable estimates of the numbers involved.

On April 20, Abdullah Shah, convicted of mass murder, was executed. Human rights groups criticized Shah's execution because they considered his trial and appeals process seriously flawed, and they held that Shah was a material witness to abuses committed by other prominent Afghans, including some members of the current Government.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such action; however, armed groups of police officials forcibly invaded and looted the homes and businesses of civilians with impunity, due to the absence of a responsive and strong police force or legal protection for victims. On April 10, troops from the Junbesh and Jamiat parties' military wings looted houses during fighting east of Mazar-e-Sharif.

Police authorities often placed women under detention in prison at the request of family members for defying the family's wishes on the choice of a spouse, or for other moral offenses. An unknown number of women were imprisoned for these reasons. Some women were in detention centers because they were runaways from home.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—During the year, continued internal conflict resulted in instances

of the use of excessive force that caused the deaths of civilians, property damage, and the displacement of residents.

Interfactional fighting between regional commanders, persistent Taliban and al-Qa'ida activity, and criminal activity contributed to continued reports of unlawful depravations of life. Militants targeted foreigners and local employees of NGOs for unlawful killings. Civilians also were killed during fighting between coalition and rebel forces.

During the year, battles between rival tribes and local commanders resulted in numerous civilian casualties. For example, on February 25, five employees of an indigenous NGO were killed near Kabul. In April, two suspects in the case were arrested. At year's end, the case remained ongoing. On June 2, three foreign and two local staff members of Doctors Without Borders (MSF) were killed in an ambush in the provincial capital of Badghis Province when a car carrying the five workers reportedly was hit by gunfire and attacked with grenades. On June 10, 11 Chinese construction workers were killed in northern parts of the country. Security officials said they arrested 10 militants linked to Hizb-e-Islami-Gulbuddin and the Taliban for the killings.

Militants also targeted civilians and elections officials in a campaign to derail national elections. Taliban spokesmen declared that all presidential candidates were high priority targets. During the year, six election workers were killed and at least seven others wounded. On June 27, Taliban fighters stopped a bus carrying 17 passengers in Uruzgan Province and killed 14 of the 17 passengers for possessing voter registration cards.

Sporadic fighting between forces loyal to General Dostum and General Atta continued during the year. On August 14, commander Amanullah Khan, and other rivals of Herat Governor Ismail Khan, launched an offensive against Ismail Khan's troops. In southern Herat alone, at least 21 men, and perhaps dozens more, were killed in the initial fighting. Coalition and government forces intervened to halt the fighting.

There were numerous bombings during the year. For example, on June 26, two female election workers were killed in a bomb blast in Jalalabad carried out by the Taliban. On August 28, another bomb blast killed nine children and an adult at a school in Paktia Province.

The Ministry of Interior stated that, of 2 individuals arrested for the July 2003 mosque bombing in which 17 persons were injured in Kandahar, 1 was released by court order and the other escaped from jail in October 2003.

Police arrested three foreign nationals in July for allegedly running a private prison in Kabul and jailing and torturing at least eight Afghans as part of a private war on terror. On September 15, a court in Kabul handed the group 8- to 10-year prison sentences; their four local accomplices received between 1- and 5-year prison sentences.

Intimidation or violence directed at NGO workers increased during the year. During the year, suspected Taliban killed at least 31 aid workers, compared to approximately 13 during 2003. For example, the Taliban claimed responsibility for the June 2 killing of five employees of MSF, including three Europeans, in Badghis Province. On June 9, police announced they had arrested 10 suspects.

The status of two suspects arrested by security forces for the killing of two local aid workers in September 2003 was unknown at year's end. The two suspects arrested for the November 2003 killing of Bettina Goislard, a French United Nations High Commission on Refugees (UNHCR) worker in Ghazni Province, were sentenced to death. It was believed that the attackers acted with the assistance of Taliban remnants and al-Qa'ida terrorists (*see* Section 1.a.).

Violence and instability hampered relief and reconstruction efforts in different parts of the country, and there were reports by NGOs that some local commanders were charging them for the relief supplies they were bringing into the country. The delivery of assistance was also limited by the difficulties in moving relief goods overland to remote areas.

There was no further significant displacement of Pashtuns and others from Faryab, Jawzjan, and Badghis Provinces; however, continued harassment and insecurity limited the return of Pashtun families to their villages in northern areas. On the border of Nangarhar and Logar provinces, an unknown number of persons were killed during heavy fighting between rival tribes over natural resources. Sporadic fighting and lawlessness remained a hindrance to assistance efforts in the north and northwest through much of the year.

There were no developments in the 2002 investigation of bodies of Taliban prisoners in Dasht-i Leili, where international experts found evidence of summary execution and death by suffocation.

Estimates of the remaining number of landmines planted during and after the Soviet occupation ranged from 450,000, according to the Halo Trust, to 7 million, according to the U.N. The most heavily mined areas were the provinces bordering Iran and Pakistan. The landmines and unexploded ordnance caused deaths and injuries, restricted areas available for cultivation, and impeded the return of refugees to mine-affected regions. During the year, the ICRC recorded 847 new victims of mines and other explosive remnants of war. Including unreported incidents, the ICRC estimated there were approximately 100 incidents per month taking place in the country.

With funding from international donors, the U.N. organized and trained mine detection and clearance teams, which operated throughout the country. More than 1.5 million refugees and internally displaces persons (IDPs) returned to areas cleared of mines and unexploded ordnance. U.N. agencies and NGOs conducted a number of educational programs and mine awareness campaigns for women and children in various parts of the country.

Continued warfare, as well as prolonged and severe drought, also resulted in the involuntary displacement of civilians.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Article 34 of the Constitution provides for freedom of speech and of the press; however, some senior officials, particularly at the local level, attempted to intimidate journalists and influence their reporting. The 2002 Press Law contained an injunction against information that "could mean insult to the sacred religion of Islam and other religions." The ambiguity about offensive material offered the potential for abuse of this clause in order to restrict press freedom. On April 1, President Karzai signed an amended Press Law following its review by the Ministry of Information and Culture. The new law retains the broad and vague content restriction on "subjects that are contrary to principles of Islam and offensive to other religions and sects," but excludes any reference to Shari'a and created a government commission with powers to decide whether journalists accused of violating the law should face court prosecution or an administrative punishment, such as a fine.

The independent media were active and publicly reflected differing political views, although this varied from region to region. The Government owned at least 35 publications and most of the electronic news media. Many other newspapers were published only sporadically, and many were affiliated with different provincial authorities. Factional authorities tightly controlled media in some parts of the country, and the degree of freedom of expression varied significantly between regions. The foreign media was covered under the freedom of speech law; however, they were prohibited from commenting negatively on the Islamic religion and from publishing materials that were considered a threat to the President.

During the year, some government departments were predisposed to crack down on journalists, and members of the intelligence service reportedly intimidated and threatened journalists. General unspecified threats against media organizations were also a common occurrence.

While some independent journalists and writers published magazines and newsletters, according to Reporters Without Borders, circulation largely was confined to Kabul, and many publications were self-censored. In practice, many persons listened to the dozen international stations that broadcast in Dari or Pashto. The BBC, Voice of America, Radio Liberty, and Radio Free Afghanistan were available throughout the country. In the countryside, some radio and television stations were under the control of local authorities. There were approximately 300 publications, 40 radio stations, and several television stations in the country. Mazar-e-Sharif alone had an estimated 50 publications. On September 12, the first independent radio station established entirely by private sector funds was inaugurated in Ghazni Province.

Journalists were subjected to harassment, intimidation, and violence during the year. In June, authorities in Herat interfered in the functioning of an independent women's community radio station, Radio Sahar. The situation was resolved through negotiation and dialogue with the authorities, according to Internews. In August, the Ministry of Information and Culture announced the creation of a commission of religious clergy to monitor the media, but its authority in practice to censor content was not specified.

In June 2003, police briefly arrested the editors of the weekly newspaper Aftaab and shut down the newspaper for allegedly contravening the old press law's injunction against anti-Islamic content. The charges were eventually dropped; however, the newspaper never resumed publication.

On August 5, authorities announced the arrest of a man suspected of involvement in the killing of four journalists in 2001. The case remained open at year's end. In

April 2003, five other suspects were arrested—two of whom confessed, according to authorities—for suspected involvement in the killing. Their status was unknown at year's end.

There were a few reports that government forces prohibited music, movies, and television on religious grounds. For example, in January, the Supreme Court briefly stopped a television station from airing female singers. The Government lifted the ban in late January, saying female singers on television were permitted under the new Constitution. In April, officials in Nangarhar Province briefly banned the performance of female singers on television and radio; however, this decision was reversed a few days later. The central Government has not banned any form of media, although there was a brief ban on cable television in early 2003. Cable operators provided a wide variety of channels, including Western movie and music channels. The Government did not restrict the ownership of satellite dishes by private citizens.

The Government did not limit or block Internet access during the year.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, association, and the right to form political parties without prior permission; however, this right was restricted in practice. Insecurity and interference from local authorities inhibited freedom of assembly and association in some areas outside Kabul. Political parties based on ethnicity, language, Islamic school of thought, and region were not allowed; however, political parties generally were able to conduct activities throughout the country without opposition or hindrance, except in regions where antigovernment violence affected overall security (*see* Section 3). The October 2003 Political Parties Law obliges parties to register with the Ministry of Justice and requires political parties to pursue objectives that are consistent with the principles of Islam. There was a report that Noorulhaq Olomi's Afghanistan National United Party was denied the right to registration, allegedly because Noorulhaq was a communist, despite meeting all legal requirements (*see* Section 3).

In Herat Province, party activists did not conduct political activities openly because of Governor Ismail Khan's intolerance of political activities. On June 18, police in Kabul allegedly disrupted and threatened a meeting of party activists; however, the police denied this incident. On September 12, Afghan security forces killed seven demonstrators in Herat. In September, demonstrators protesting the removal of Ismail Khan as Governor allegedly attacked U.N. offices and government-allied forces.

c. Freedom of Religion.—The new Constitution proclaims that Islam is the "religion of the state," but provides that non-Muslim citizens are free to perform their rituals within the limits determined by laws for public decency and public peace; however, there was some harassment of foreign missionaries and others. The Constitution also declares that no law can be contrary to the beliefs and provisions of the sacred religion of Islam. The new Constitution does not grant preferential status to the Hanafi school of Islamic jurisprudence associated with the Sunnis, and makes no reference to Shari'a law. The Government continued a policy of religious tolerance during the year; however, custom and law required all citizens to profess a religious affiliation.

Historically, the minority Shi'a community faced discrimination from the majority Sunni population. The authorities did not require licensing and registration of religious groups in any part of the country. There were no laws forbidding proselytizing, although proselytizing was viewed as contrary to the beliefs of Islam. Blasphemy and apostasy were in theory punishable by death under the current, unreformed penal code. In early September, the Supreme Court ruled that presidential candidate Latif Pedram be disqualified for making allegedly un-Islamic remarks in public. After some government offices, the AIHRC, and the international community questioned the constitutionality of this ruling, Pedram was allowed to remain in the race.

Public school curriculums included religious subjects, but religious leaders conducted detailed religious study. Non-Muslims were not required to study Islam, and there was no restriction on parental religious teaching.

The Shi'a religious affiliation of the Hazaras was historically a significant factor leading to their repression, and there was continued social discrimination against Hazaras.

Militants sometimes harassed foreign missionaries and other religiously oriented organizations. There was an unconfirmed report that the Taliban killed a former Muslim cleric on June 30, allegedly for preaching Christianity. There were

unconfirmed allegations that converts to Christianity faced societal discrimination and threats.

Sikhs and Hindus returning to the country faced difficulties in obtaining housing and land in Kabul and other provinces. Both communities did not receive land on which to cremate their dead; however, unlike in previous years, the Hindu and Sikh communities reportedly did not face any acts of discrimination.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights; however, certain laws limited citizens' movement. The passport law requires women to obtain permission from a male family member before having a passport application processed. In some areas of the country, women were forbidden by local custom or tradition to leave the home except in the company of a male relative. The law also prohibits women from traveling alone outside the country without a male relative, and male relatives must accompany women participating in Hajj. Additionally, sporadic fighting, brigandage and landmines hampered travel within the country. Despite these obstacles, many men and women continued to travel relatively freely, with buses using routes in most parts of the country.

Taxi, truck, and bus drivers complained that militia and police personnel operated illegal checkpoints and extorted them for money and goods; however, the number of such checkpoints decreased during the year. In March, local militants shot and injured a police chief at an illegal checkpoint in Mazar-e-Sharif.

The Constitution prohibits forced exile, and the Government did not use either forced internal or external exile in practice.

There were estimates that up to 165,000 persons were displaced internally. However, during the year, over 750,000 refugees and a modest number of IDPs were resettled. Since 2002, over 3 million citizens have returned to the country. Women and children constituted 75 percent of the refugee population. Refugee returnees settled primarily in urban areas and placed additional strain on the cities' already overburdened infrastructures. There were further population movements from rural to urban areas due to drought, insecurity, and inadequate assistance in rural areas.

Sporadic fighting and related security concerns, as well as the drought, discouraged some refugees from returning to the country. For example, in mid-August, refugees returning from Iran were stranded for several days due to fighting between different provincial governors and warlords in and around Herat Province (*see* Section 1.a.).

Ethnic Hazaras prevented some Kuchi nomads from returning to traditional grazing lands in the central highlands for a number of reasons, including allegations that the Kuchis were pro-Taliban and thus complicit in the massacres perpetrated against Hazaras in the 1990s. Hazaras also found difficulty in returning to the country. In December, a local leader from Karukh district in Herat blocked the return of approximately 200 Hazara refugees from Iran.

According to the U.N., 100,000 Pashtuns, displaced from northern areas after 2001 because their ethnic group was closely associated with the Taliban regime, remained displaced.

The Government has not established a system for providing protection for refugees or those seeking asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right for the first time on October 9, directly electing Hamid Karzai from a slate of 18 candidates. Karzai received 55.4 percent of votes cast in an election that was deemed acceptable to the majority of Afghans.

A Constitutional Loya Jirga (CLJ) approved a new Constitution on January 4, replacing the 1964 Constitution in operation under the 2001 Bonn Agreement. According to HRW, local authorities used fraud and intimidation to get their supporters elected to the CLJ; however, other reports, including those prepared by the U.N., suggested that intimidation was localized and did not significantly affect the outcome of elections.

At the CLJ, there were 502 delegates, 100 women and 402 men. The then-Interim President, Hamid Karzai, appointed 52 of the delegates, while the rest were elected. Of the 52 appointed delegates, 25 were women and 27 were men. Debate was intense during the CLJ, and citizens had the opportunity to question senior leaders; however, some observers criticized the proceedings for alleged vote buying and intimidation. According to HRW, some delegates expressed alarm at the intrusive presence of agents from the Government's intelligence service. Also participating in

the CLJ were representatives of refugees, IDPs, Kuchis, Hindus and Sikhs, and persons with disabilities.

The Government did not ban any political parties, other than the Taliban; however, the Supreme Court banned communists from forming a political party because it alleged that communists were atheists. The Ministry of Justice courted claims of selective discrimination because it avoided registering the National Unity Party, whose leaders were former communists, although the party met all legal requirements for registration. During the year, approximately 40 accredited political parties registered with the Ministry of Justice and began preparing for national elections.

Political parties generally were able to conduct activities throughout the country without opposition or hindrance, except in regions where antigovernment violence affected overall security. Joint reports by UNAMA and AIHRC revealed that officials sometimes interfered with political parties, mainly due to a lack of awareness of citizens' political rights. Political parties also exercised significant self-censorship. Political activities were visibly discouraged or curtailed in some parts of the country. For example, the Republican Party's activities were restricted in provinces that were controlled by Ismail Khan and General Rashid Dostum. However, UNAMA and AIHRC's conclusions were that political freedom improved substantially and steadily during the year.

There was widespread public perception of corruption in the executive branch of government, including the involvement of officials up to the ministerial level in the illegal narcotics trade. However, no visible actions were taken to combat corruption beyond public statements by government officials.

Article 50 of the Constitution provides citizens the right to access government information, except where this right might violate the rights of others. The national Government generally provided such access in practice, but officials at the local level were less cooperative.

The Constitution reserves 2 seats from each province in the lower house of Parliament specifically for women, for a total of 68. There were two women in President Karzai's ethnically inclusive Cabinet. The chairperson of the AIHRC was also a woman. There were two women on the 6-member Interim Electoral Commission. The CLJ included 100 female delegates. The Constitution requires that 2 seats in each province must be filled by women in Parliament, 3 seats by religious scholars, 11 seats by refugees in Iran, 13 seats by refugees in Pakistan, 9 seats by Kuchis, and 6 seats by IDPs.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Some of these human rights groups were based in Pakistan, with branches inside the country. The lack of security and instability in some parts of the country severely reduced NGO activities in these areas. In the first half of the year, suspected Taliban members fired on NGO vehicles, attacked NGO offices, and killed at least 31 aid workers (*see* Sections 1.a. and 1.g.). During rioting in Herat to protest Governor Ismail Khan's removal, protestors burned U.N. agencies' offices and the provincial office of the AIHRC. MSF suspended its activities after five of its employees were killed on June 2, claiming government inaction on security and apprehending the killers. Police later arrested several suspects in the case (*see* Section 1.g.).

NGOs accused Minister of Planning Ramazan Bashardost of indirectly contributing to violent attacks on NGOs through his repeated critical public remarks about their activities and functioning.

Local employees ran several international NGOs, including Global Rights (formerly International Human Rights Law Group) and HRW, which monitored the situation inside the country.

The AIHRC, created by Article 58 of the Constitution, continued its role in addressing human rights problems within the country. The 11-member appointed commission generally acted independently of the Government, often voicing strong criticism of government institutions and actions, and accepting and investigating complaints of human rights abuses. During the year, the AIHRC established three field offices outside Kabul. The ICRC visited some of the AIHRC field offices and collaborated with AIHRC on some human rights abuse cases. During the year, the AIHRC assisted the ICRC in sharing information on detention cases and issues of national prison monitoring.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for the equal rights of men and women; however, some local customs and practices that discriminated against women generally prevailed in much of the country. The severity of discrimination varied from area to area, depending on the local leadership's attitude toward education for girls and employment for women, and on local customs. Historically, the minority Shi'a faced discrimination from the majority Sunni population.

Women.—Women in urban areas regained some measure of access to public life, education, health care, and employment; however, the lack of education perpetuated during the Taliban years, and limited employment possibilities, continued to impede the ability of many women to improve their situation. In February, the Government established the first unit of female police, and small numbers of women began to join the police force during the year.

Violence against women persisted, including beatings, rapes, forced marriages, and kidnappings. Such incidents generally went unreported, and most information was anecdotal. The Ministry of Women's Affairs estimated that more than 50 percent of marriages involved women under 16, the legal minimum age of marriage for women. It was difficult to document rapes, in view of the social stigma that surrounded them. Information on domestic violence and rape was limited. In the climate of secrecy and impunity, domestic violence against women and rape remained a serious problem.

Women composed 7 out of the 35 members of the Constitutional Commission set up before the CLJ. Women also participated actively in the CLJ proceedings (*see* Section 3); however, some women delegates denounced their colleagues in the CLJ for attempting to shut them out of leadership positions. One woman served as Deputy Chairwoman of the CLJ and chaired several sessions of the CLJ, and others held positions of responsibility in the working groups. Women were able to question leaders openly and discussed inter-gender issues during the CLJ. Massouda Jalal, who challenged and lost to President Karzai in the 2002 race for ELJ president, was one of 18 candidates in the October 9 presidential election. There were also 3 female vice-presidential running mates in the election, and 41 percent of all registered voters were women.

In detention facilities, there were 136 women, many of whom were imprisoned at the request of a family member. Many of the incarcerated opposed the wishes of the family in the choice of a marriage partner, were accused of adultery, or faced bigamy charges from husbands who granted a divorce, only to change their minds when the divorced wife remarried. Other women faced similar charges from husbands who had deserted them and reappeared after the wife had remarried. Some women resided in detention facilities because they had run away from home due to domestic violence or the prospect of forced marriage, and there were no shelters for women in this situation. There were approximately eight detention centers for women in the country.

In previous years, women in the north, particularly from Pashtun families, were the targets of sexual violence perpetrated by commanders from other ethnic groups. During the year, there were at least four credible reports of soldiers and commanders loyal to local warlords raping girls, boys, and women in provinces in the eastern, southeastern, and central part of the country. In one of these cases, a perpetrator was arrested and his trial was ongoing at year's end.

There were growing concerns about women committing self-immolation, most often conducted in order to escape from oppressive family circumstances, such as forced marriage. Although comprehensive and accurate statistics were not available, hospital doctors reported that self-immolations were increasingly common among young women in the western part of the country. Self-immolation was also reported to be particularly high in Farah Province. The AIHRC investigated 300 cases by year's end. Reports of suicide among women were often related to forced marriages. In September 2003, a fatwa was issued that allowed a woman to marry again if her husband was missing more than 4 years. There were reports of death threats against women activists.

Discrimination against women in some areas was particularly harsh. Some local authorities excluded women from all employment outside the home, apart from the traditional work of women in agriculture; in some areas, women were forbidden to leave the home except in the company of a male relative (*see* Section 2.d.). According to the Institute for Media, Policy and Civil Society (IMPACS), women in Logar were prohibited from traveling to the area of town where a community radio station was based, and male journalists often were not allowed to interview women for their reports.

Many women continued to wear the burqa because of conservative traditions and fear of harassment or violence; however, this varied greatly among regions. Cases of local authorities policing aspects of women's appearance, to conform to a conservative interpretation of Islam and local customs, appeared to have diminished. Government-owned media allowed female singers on television over the objectives of religious conservatives, effectively ending a ban dating to 1992 (*see* Section 2.a.). In February, authorities in Herat closed a driving school for women.

A report released by the International Organization for Migration in 2003 claimed that trafficking was an increasing problem. Human rights violations related to trafficking take the form of forced labor, forced prostitution, and sexual exploitation of children (*see* Section 5, Trafficking).

Government regulations prohibited married women from attending high school classes; however, during the year this regulation was changed, and married women are allowed to attend high school classes.

Women continued to be denied access to adequate medical facilities. According to the AIHRC, nearly 40 percent of the 756 basic primary-health facilities in 2002 had no female workers, a major deterrent for women because societal barriers discouraged them from seeking care from male health workers.

Children.—The Constitution makes education to the intermediate level mandatory, and provides for free education to the college, or bachelor's degree level. Local administrative bodies and international assistance organizations took action to ensure children's welfare to the extent possible; however, the situation of children was very poor. A back-to-school campaign launched by the Ministry of Education and coalition supporters increased school enrollment from 4.2 million children in 2003 to over 4.8 million during the year.

UNICEF reported that 34 percent of children enrolled in school were girls, although this figure hid large disparities from province to province, with enrollment as low as 15 percent in some, and an estimated 1.5 million school-age girls not yet enrolled in classes. Since 2002, the number of girls attending school had increased by over 30 percent. Southern provinces also showed a net increase of about 30 percent, despite higher levels of insecurity and conflict.

Nevertheless, lack of teachers and materials as well as security concerns remained deterrents to girls' education. In some parts of the country, access to education was further impeded by violence in which schools, teachers, and students were threatened or physically attacked. For example, two girls' schools were partially destroyed in attacks in Badakhshan and Farah on February 19 and March 2, respectively. Similar attacks on schools in general took place throughout the year. There were approximately 40 attacks on girls' schools during 2003.

While most girls throughout the country were able to attend school, a climate of insecurity persisted in some areas. On April 28, suspected Taliban burned and destroyed two primary schools in Kandahar Province. Girls' schools also continued to be the target of attacks by Taliban and other extremists (*see* Section 6.a.). The Government and international donors built more than 2,000 schools during the year.

Child abuse was endemic throughout the country. Abuses ranged from general neglect, physical abuses, abandonment, and confinement to work in order to pay off families' debts. There were no child labor laws or other legislation to protect child abuse victims (*see* Section 6.d.).

Children did not have adequate access to health care, and only one children's hospital existed in the country; however, it was not accessible to citizens in distant provincial districts outside Kabul.

Child trafficking was widespread and continued to be a problem during the year (*see* Section 5, Trafficking).

Police were investigating 85 cases of children reportedly kidnapped and killed for their organs.

In May 2003, President Karzai issued a decree that prohibited the recruitment of children and young persons under the age of 22 to the Afghan National Army. UNICEF initiated a program that demobilized and reintegrated approximately 5,000 of an estimated 8,000 former child soldiers. Afghan militias, including the Taliban and Northern Alliance, used child soldiers in past years (*see* Section 6.d.).

c. Trafficking in Persons.—The law does not prohibit trafficking in persons; however, traffickers were prosecuted under other legislation. The country was a source and transit point for trafficked persons. An International Organization for Migration (IOM) report released in late 2003 reported qualitative and anecdotal evidence of increased trafficking in girls and children to Pakistan, Iran, and the Gulf States; however, the lack of systematic monitoring and crime statistics in general prevented a quantitative assessment of the scale of the problem. The few quantitative data available suggested that trafficking in children, mainly boys, was the predominant

form of trafficking, at least across borders. An IOM report released during the year confirmed that the buying and selling of women and girls continued.

Some girls reportedly were kept in brothels. There were continued reports of poor families promising young girls in marriage to satisfy family debts. There were a number of reports that children, particularly from the south and southeast, were trafficked to Pakistan to work in factories. UNICEF cited unconfirmed reports of the abduction of women and children in the southern part of the country. Although prosecutions of traffickers increased, and the Government devoted greater attention to trafficking in persons during the year, prosecution of perpetrators continued to be inconsistent. During the year, the AIHRC received 198 reports of child trafficking, and there were approximately 20 arrests and 7 convictions of child traffickers. The Ministry of Interior reported 198 cases of kidnapping in 2003, but it was unclear how many of these cases had a trafficking element. President Karzai issued a decree mandating the death penalty for child traffickers convicted of murder, and lengthened prison terms. Trafficking victims, especially those trafficked for sexual exploitation, faced societal discrimination, particularly in their home villages, and the risk of contracting sexually transmitted diseases.

At year's end, according to the AIHRC, approximately 314 children were repatriated after having been allegedly trafficked to Saudi Arabia, Pakistan, Zambia, and Oman. The Ministry of Labor and Social Affairs, with the assistance of UNICEF, set up a transit center to assist with these returns, and other agencies such as the AIHRC helped with the children's reunification and reintegration.

Persons With Disabilities.—The Constitution commits the State to assist persons with disabilities and protect their rights; however, the Government took no measures to mandate accessibility for persons with disabilities

An estimated 800,000 persons suffered from disabilities requiring at least some form of assistance. Although community-based health and rehabilitation committees provided services to approximately 100,000 persons, their activities were restricted to 60 out of 330 districts, and they were able to assist only a small number of those in need. During the year, the Disabled Sports Federation was established, with approximately 1,000 members across the country. The first center for children with cerebral palsy was inaugurated in Kabul on May 17, offering physiotherapy, counseling, and training courses.

National/Racial/Ethnic Minorities.—During the year, social discrimination against Hazaras and other Shi'as continued. Pashtuns in Herat Province accused Governor Ismail Khan, a Tajik, of discrimination and abuses against their ethnic group. The nomadic Kuchis expressed concern that the voter registration process underrepresented their population; however, the Government and the Joint Electoral Management Body (JEMB) worked with this group to address their concerns.

Other Societal Abuses and Discrimination.—The law criminalizes homosexual activity, and this was enforced in practice. In August, a foreign national was arrested in Kabul, initially on the charge of homosexual rape; however, the charges were later dropped.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and a mixture of labor laws from earlier periods provide broad provisions for protection of workers; however, little was known about their enforcement or practices. Labor rights were not understood outside of the Ministry of Labor, and workers were not aware of their rights. There was no effective central authority to enforce them. The only large employers in Kabul were the minimally functioning ministries and local and international NGOs.

b. The Right to Organize and Bargain Collectively.—The law does not provide for the right to strike; however, the country lacks a tradition of genuine labor-management bargaining. There were no known labor courts or other mechanisms for resolving labor disputes. Wages were determined by market forces, or, in the case of government workers, dictated by the Government.

There were no reports of labor rallies or strikes.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children; however, little information was available.

d. Prohibition of Child Labor and Minimum Age For Employment.—The Constitution prohibits children under the age of 15 from working more than 30 hours per week; however, there was no evidence that authorities in any part of the country enforced labor laws relating to the employment of children. Children from the age of 6 often worked to help support their families by herding animals, collecting paper,

scrape metal and firewood, shining shoes, and begging. Some of these practices exposed children to the danger of landmines.

e. Acceptable Conditions of Work.—There was no available information regarding a statutory minimum wage or maximum workweek, or the enforcement of safe labor practices. Many workers were allotted time off regularly for prayers and observance of religious holidays.

BANGLADESH

Bangladesh is a parliamentary democracy, with broad powers exercised by the Prime Minister. Khaleda Zia, leader of the Bangladesh Nationalist Party (BNP), became Prime Minister following parliamentary elections in 2001, deemed to be free and fair by international and domestic observers. The 2001 elections, supervised by a nonparty caretaker government, took place in a climate of sporadic violence and isolated irregularities. The higher levels of the judiciary displayed some degree of independence and often ruled against the Government; however, the judiciary was subject to influence from the executive and the legislature. Lower judicial officers were reluctant to challenge government decisions and suffered from corruption.

The Home Affairs Ministry controls the police and paramilitary forces, which have primary responsibility for internal security. The army is responsible for external security but also occasionally has been given domestic security responsibilities. The Government created a new police unit, the Rapid Action Battalion (RAB), composed of personnel from different law enforcement and security agencies, including the military, to deal with violent criminals. The civilian authorities maintained effective control of the security forces. The RAB and security forces committed human rights abuses and were rarely disciplined, even for egregious actions. Police were often reluctant to pursue investigations against persons affiliated with the ruling party, and the Government frequently used the police for political purposes. Members of the security forces committed numerous serious human rights abuses.

The country had a primarily agricultural and market-based economy; however, the Government owned most utility companies, some transport companies, and many large manufacturing and distribution firms. The population for the year was estimated at 140 million. The economic growth rate was 5.5 percent. Wages and benefits kept pace with the relatively low rate of inflation. General strikes, often politically motivated, took a heavy toll on the economy, as did monsoon flooding that caused damage to crops and infrastructure.

The Government's poor human rights record worsened, and the Government continued to commit numerous abuses. Security forces committed a number of extrajudicial killings. The police; the paramilitary organization, Bangladesh Rifles (BDR); the auxiliary organization, Ansar; and the military deputed to the RAB used unwarranted lethal force. Police often employed excessive, sometimes lethal, force in dealing with opposition demonstrators, and police and RAB personnel routinely employed physical and psychological torture during arrests and interrogations. Prison conditions were extremely poor and were a contributing factor in some deaths in custody. Police corruption remained a problem. Nearly all abuses went unpunished, and the climate of impunity, reinforced by 2003 legislation shielding security forces from legal challenge of their actions, remained a serious obstacle to ending abuse and killings. Violence, often resulting in deaths, was a pervasive element in the country's politics. Supporters of different political parties, and often supporters of different factions within one party, frequently clashed with each other and with police during rallies and demonstrations. Press reports of vigilante killings were common. A large judicial case backlog existed, and lengthy pretrial detention was a problem. Police searched homes without warrants, and the Government forcibly relocated illegal squatter settlements. Virtually all journalists practiced some self-censorship. Attacks on journalists and efforts to intimidate them by government officials, political party activists, and others increased. The Government limited freedom of assembly, particularly for political opponents, and on occasion, limited freedom of movement. Violence and discrimination against women remained serious problems, as did trafficking in women and children for the purpose of prostitution and at times for forced labor. Abuse of children and child prostitution were problems. Religious freedom was restricted, and societal discrimination against religious minorities, persons with disabilities, and indigenous persons, was a problem. The Government limited worker rights, especially in the Export Processing Zones (EPZs), and child labor and abuse of child workers remained widespread.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Security forces committed numerous politically motivated and extrajudicial killings. The police, the BDR, and the RAB used unwarranted lethal force.

During the year, there were an increased number of killings by security personnel (*see* Section 1.c.). Nearly all abuses went uninvestigated and unpunished. The resulting climate of impunity remained a serious obstacle to ending abuse and killings. In the few instances where charges were levied, punishment of those found guilty was predominantly administrative. According to press reports, the RAB killed 79 persons during the year in an ongoing anticrime operation. There were also reports of crossfire deaths at the hands of police. The deaths, all under unusual circumstances, occurred while the accused were in custody and during police operations; however, the Government described the deaths of some identified criminals as occurring in crossfire between the RAB and crime gangs.

On July 15, a RAB team arrested opposition Awami League (AL) activist Sumon Ahmed Majumder, a witness to the May 7 killing of AL legislator Ahsanullah Master. Sumon later died at the hospital after his arrest, and independent human rights investigators determined that Sumon died from torture while in the custody of the RAB. At year's end, no one was charged for Sumon's death, while the Government charged Sumon for extortion.

On August 5, RAB members killed a criminal, Pichchi Hannan, in a crossfire incident. Hannan was arrested on June 26 and was killed in a predawn shootout between RAB members and Hannan affiliates while Hannan was reportedly trying to escape. The Government made no inquiry into Hannan's death.

During the year, the court dismissed the case against police accused in the July 2003 killing of Mobarak Hossain.

Violence, often resulting in deaths, was a pervasive element in the country's politics and increased during the year (*see* Sections 1.c. and 3). Supporters of different political parties, and often supporters of different factions within one party, frequently clashed with each other and with police during rallies and demonstrations. According to human rights organizations, 526 persons were killed and 6,235 injured in politically motivated violence during the year (*see* Sections 1.c., 1.d., and 2.a.).

On May 7, gunmen killed AL legislator Ahsanullah Master at a party meeting in Tongi. On July 10, police filed charges against 30 persons, including a youth front leader of ruling BNP, accusing them of the killing. The case remained open at year's end.

On May 21, an explosion at a Muslim shrine in Sylhet killed several persons and injured dozens of others, including the British High Commissioner to Bangladesh, Anwar Chowdhury. The Government did not conduct a serious investigation, and no charges were filed.

On August 21, a series of explosions at a rally in Dhaka, where AL president Sheikh Hasina was speaking, killed at least 20 persons, including the AL women's affairs secretary Ivy Rahman, and injured several hundred others. On August 22, the Government formed a judicial commission to investigate the incident, and on October 2, the commission submitted its report to the Government. Although the Government did not release the report, newspapers stated that the one-member inquiry commission hinted at the involvement of a foreign intelligence agency in masterminding the attack and executing it with internal assistance.

There were no developments in the case of the 1975 killing of Sheikh Mujibur Rahman. On October 20, the Dhaka Metropolitan Court acquitted five BNP members, sentenced three army officers and nine others to life in prison, and sentenced three others to death for the 1975 jail killing case of four AL politicians.

Vigilante killings and killings by mobs were common. On February 9, mobs beat and killed four alleged members of a banned leftist group in Khulna and Bagerhat. On April 1, a vigilante, identifying himself as "Bangla Bhai" or Brother of Bengal, launched an anticrime campaign in the northern district of Rajshahi and adjoining areas, initially with support from police. Several alleged criminals belonging to an outlawed leftist group were killed in the vigilante campaign, which continued for approximately 2 months until the Government ordered Bangla Bhai's arrest in response to criticism by the press and opposition parties. At year's end, Bangla Bhai remained free and in hiding. On September 26, a mob burned to death three alleged robbers on Free School Street in Dhaka.

During the year, no government action was taken in the case involving the November 2003 police response to a protest at Narayanganj (*see* Section 6.b.).

Violence along the border with India remained a problem. Domestic human rights nongovernmental organizations (NGOs) reported that Indian border forces killed as

many as 76 citizens during the year. According to press accounts and human rights groups, border violence claimed several hundred citizens' lives during the past 6 years.

b. Disappearance.—Disappearances and kidnappings were problems during the year. According to press accounts monitored by the Bangladesh Society for the Enforcement of Human Rights (BSEHR), a total of 344 kidnappings took place during the year. According to Odhikar, another human rights organization, 28 persons were kidnapped for political reasons during the year. Kidnapping for profit remained a serious problem. For example, on February 23, Hasan Mahbub Bablu, manager of a resort hotel in Bandarban Hill District, was freed after his family reportedly paid a ransom of more than $25,400 (taka 1.5 million) for his release after 3 weeks of captivity. In general, released victims were unwilling to admit to ransom payment for fear of further attack, and it was difficult to verify such reports. There were no major developments in the July 2003 kidnapping of BNP leader and prominent businessman Jamaluddin Chowdhury from Chittagong.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and cruel, inhuman, or degrading punishment; however, police and the RAB routinely employed physical and psychological torture as well as cruel, inhuman, and degrading treatment during arrests and interrogations. Torture consisted of threats and beatings, and the use of electric shock. According to the Bangladesh Rehabilitation Center for Trauma Victims, there were 1,959 victims of torture and 42 deaths due to torture by security forces during the year (*see* Sections 1.a., 1.d., and 2.a.). Another human rights organization, Ain-O-Shalish Kendro (ASK), reported 26 deaths due to torture during the year. The Government rarely charged, convicted, or punished those responsible, and a climate of impunity allowed such police abuses to continue.

On May 14, in Chittagong, a team of Anwara police picked up retired schoolteacher Abu Ahmed Master, took him to the police station, and kicked and beat him. Upon his son's arrival at the station, the officer-in-charge demanded $847 (taka 50,000) and threatened to kill his father. Police released Master early in the morning on May 15, upon payment of the bribe. The District Anti-Corruption office investigated the incident and submitted a report, and at year's end, the case remained open. On August 10, police sergeant Altaf Hossain Mollah hung Aminul Kabir Sumon upside down from the ceiling of Wari police outpost, spinning him until he lost consciousness. Sumon, a reporter for the Bangladesh Crime News Agency, was in Dhaka seeking Altaf's comment on allegations of his complicity in trafficking and prostitution. The Government suspended Altaf but took no further action.

According to BSEHR, there were 11 incidents of rape by law enforcement personnel or other officials during the year. On December 18, in Chuadanga, police took Dolly Khatun to a police camp for questioning, where 14 police officers subsequently raped her. Responding to public outcry, the Government withdrew all 14 policemen from duty and arrested 5 of them. On December 21, Khatun filed criminal charges against the policemen. The case remained open at year's end. In most cases, law enforcement personnel accused of rape and torture were not investigated; however, in some instances the Government took action. In September, three policemen convicted of raping and killing a teenage girl in Dinajpur in 1995 were hanged inside Rangpur prison. In some cases, women were often detained in "safe custody" after reporting a rape (in reality, confined in jail cells), where they endured poor conditions and were sometimes abused and raped again (*see* Section 5).

Human rights groups and press reports indicated that vigilantism against women for perceived moral transgressions occurred in rural areas, often under a fatwa (*see* Section 2.c.), and included punishments such as whipping. The press monitoring unit of ASK recorded 35 incidents of fatwa during the year. In these cases, seven persons were lashed and others faced punishments ranging from physical assault to shunning of families by their communities.

Rejected suitors, angry husbands, or those seeking revenge sometimes threw acid on a woman's face (*see* Section 5).

Prison conditions were extremely poor and were a contributing factor to some custodial deaths. During the year, 103 persons died in prison while 240 others died in the custody of police and other security forces, either in an encounter or in security forces' or police custody (*see* Section 1.a.). All prisons were overcrowded and lacked adequate facilities. Government figures indicated that the existing prison population of 76,148 was nearly 300 percent of the official prison capacity of 25,823. Of the entire prison population, 52,137 were awaiting trial, 23,536 had been convicted, and 36 were detained without any charges, according to figures received by a human rights organization. In most cases, cells were so crowded that prisoners slept in shifts.

Juveniles were required by law to be detained separately from adults; however, in practice, due to a lack of facilities, many were incarcerated with adult prisoners. In April 2003, the High Court directed the Government to house accused juveniles apart from other prisoners and to transfer them to correctional homes expeditiously. The Court also directed the Government to include child rights' organization representatives on the list of nonofficial jail visitors. Pretrial detainees were not held separately from convicted prisoners.

Women were detained separately from men but faced the same extremely poor conditions.

Although the law prohibits women in safe custody from being housed with criminals, in practice, no separate facilities existed. In 2002, the Government began transferring women in safe custody to homes for vagrants or NGO-run shelters, where available.

In general, the Government did not permit prison visits by independent human rights monitors, including the International Committee of the Red Cross (ICRC). Government-appointed committees of prominent private citizens in each prison locality monitored prisons monthly but did not release their findings. District judges occasionally also visited prisons but rarely disclosed their findings.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, authorities frequently violated these provisions, even in nonpreventive detention cases. The Constitution specifically allows preventive detention, with specified safeguards, and provides for the detention of individuals on suspicion of criminal activity without an order from a magistrate or a warrant. The Government arrested and detained persons arbitrarily and used national security legislation such as the Special Powers Act (SPA) of 1974 to detain citizens without filing formal charges or specific complaints.

Police were organized nationally. Other security forces were charged with policing border areas and were asked to perform anticrime drives. Police were seen as ineffective, often reluctant to investigate persons affiliated with the ruling party, and were thought to be used frequently for political purposes by the Government. There was widespread corruption and a severe lack of resources, training, and discipline. In February 2003, the Parliament adopted legislation to shield security forces from legal consequences for their acts during the countrywide anticrime drive known as Operation Clean Heart, which resulted in an estimated 50 deaths and an unknown number of torture victims. The Joint Drive Indemnity Act barred persons from seeking justice through the courts for the deaths and human rights violations that occurred during the drive, which began in 2002 and ended in January 2003. In April 2003, the High Court issued a notice to the Government regarding the legality of the Indemnity Act, but there were no developments at year's end. The Government established the RAB, a better-equipped, new police unit drawing personnel from other police units and other security agencies, including the military, and developed some plans for overall police reform, but few concrete steps were taken to address human rights problems and the RAB committed serious human rights violations. Victims of police abuse were generally reluctant to file cases against police, as there was no independent body charged with investigation of criminal allegations against members of the police force.

The law does not provide for the use of warrants in all cases. Section 54 of the Criminal Procedure Code and Section 86 of the Dhaka Metropolitan Police (DMP) Ordinance provide for the detention of persons on the suspicion of criminal activity without an order from a magistrate or a warrant, and the Government regularly arrested persons without formal charges or specific complaints. Both ordinances were misused during the year. Mass arrests, often politically motivated, continued to occur. According to Odhikar, in the Dhaka Metropolitan Area, a total of 4,126 persons were arrested from January through August of the year under Section 54 and another 58,722 under Sections 86 and 100 of the DMP Ordinance.

Authorities used Sections 54 and 86 to detain persons on false charges as punishment for the expression of views critical of or different from the Government. On September 24, in Dhaka, police arrested large numbers of opposition party members prior to the opposition's planned public rallies on October 3. The High Court, following the filing of a petition from human rights NGOs, barred police from arresting any citizen under Section 86 until October 3; however, police continued to arrest persons under section 54. The Constitution provides for the right to a prompt judicial determination; however, this was rarely enforced in practice. For example, on August 5, the Bangladesh National Women Lawyers' Association (BNWLA) filed a petition seeking release of Shama Nishat, a 14-year-old girl, who remained in prison without charge. The court granted the petition and ordered transfer of the girl to BNWLA custody. In December 2003, a 14-year-old boy was released from prison

after 2 years in custody. The child was arrested in a blanket sweep against criminals and was never charged with any offense. Under the SPA, the Government or a district magistrate may order a person detained for 30 days to prevent the commission of an act that could threaten national security; however, detainees were sometimes held for longer periods. In SPA cases, the magistrate must, by the 15th day, inform the detainee of the grounds of his detention, and an advisory board is supposed to examine the cases of SPA detainees after 4 months. Detainees had the right to appeal.

There was a functioning bail system in the regular courts; however, under certain security and crime law, a non-bailable period of detention existed. On August 3, a High Court panel ordered the Government to free on bail over 7,400 detainees who had been in prison without undergoing trial for more than 360 days.

Criminal detainees were granted access to attorneys; however, detainees were not entitled to be represented by a lawyer before an advisory board. State-funded defense attorneys rarely were provided, and there were few legal aid programs to offer financial assistance. Lawyers usually were allowed only after charges were filed. In April 2003, the High Court issued a directive that allowed legal representatives to visit those arrested under Section 54.

Arbitrary arrests were rampant during the year. The Government sometimes used serial detentions to prevent the release of political activists. On May 22, police arrested Kazi Faruque Ahmed, the president of the NGO Proshika, ostensibly for cheating and corruption (*see* Section 4).

During the year, the Government submitted to the court a list that included 16 persons who had been in prison without trial for more than 11 years, 10 over 10 years, 29 more than 9 years, 51 more than 8 years, 111 for more than 7 years, 238 for more than 6 years, 502 more than 5 years, 917 more than 4 years, 1,592 more than 3 years and 3,673 more than 2 years.

The Government frequently used Sections 54 and 86 to harass and intimidate members of the political opposition and their families. Police sometimes detained opposition activists prior to and during demonstrations without citing any legal authority, holding them until the event was over. On April 18, police conducted a mass arrest drive to undermine the AL's efforts to unseat the Government. Police arrested over 10,000 persons in reaction to the AL's campaign to unseat the Government. According to media reports, courts handed down some short prison sentences without giving the detainees the opportunity to defend themselves, but most were eventually released.

Odhikar's press monitoring report found that a total of 526 persons were killed, approximately 6,235 persons were injured, and 2,918 were arrested for political reasons during the year (*see* Sections 1.a., 1.c, and 2.a.). The Odhikar figure for arrests for political reasons did not include the mass arrests from April.

It was difficult to estimate the total number of detentions for political reasons. Many activists were charged with crimes, and many criminals claimed to be political activists. Most such detentions appeared to last for several days or weeks, and defendants in most cases received bail; however, dismissal of wrongful charges or acquittal took years.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, in practice, a longstanding temporary provision of the Constitution places the lower courts under the executive, and the courts were subject to the executive's influence. The higher levels of the judiciary displayed some degree of independence and often ruled against the Government in criminal, civil, and politically controversial cases. Corruption, judicial inefficiency, and a large backlog were serious problems. The court system has two levels: the lower courts and the Supreme Court. Both hear civil and criminal cases. The lower courts consist of magistrates, who are part of the executive branch of the Government, and session and district judges, who belong to the judicial branch. The Supreme Court is divided into two sections: the High Court and the Appellate Court. The High Court hears original cases and reviews cases from the lower courts. The Appellate Court has jurisdiction to hear appeals of judgments, decrees, orders, or sentences of the High Court. Rulings of the Appellate Court are binding on all other courts.

On August 17, the Supreme Court criticized the Government for its failure to establish a timeframe in which to implement a 1997 High Court order to separate the judiciary from the executive. At year's end, the Government did not implement the order in full.

The law provides the accused with the right to be represented by counsel, to review accusatory material, to call witnesses, and to appeal verdicts. Trials were public, and defendants had the right to an attorney; however, state-funded attorneys were rarely provided. Under the provisions of the Public Safety Act, Law and Order

Disruption Crimes Speedy Trial Act (STA), and the Women and Children Repression Prevention Act, special tribunals hear cases and issue verdicts. Cases under these laws must be investigated and tried within specific time limits, although the law was unclear regarding the disposition of the case if it was not finished within the allotted time periods. Defendants were presumed innocent and had the right to appeal.

In July, Parliament codified the use of Alternative Dispute Resolution (ADR) and extended its use to Sylhet and Chittagong. ADR allows citizens to have the opportunity to present their cases before filing for mediation. According to government sources, wider use of mediation in civil cases has quickened the administration of justice.

The court system was plagued by corruption and a substantial backlog of cases, and trials were typically marked by extended continuances while the accused remained in prison. These conditions effectively prevented many persons from obtaining a fair trial. A September 14 Transparency International survey revealed that magistrates, attorneys, and court officials demanded bribes from defendants in more than 67 percent of the cases filed under the STA (*see* Section 1.d.). On April 20, the President dismissed Syed Shahidur Rahman, a judge of the High Court, on the charge of misconduct for accepting money to fix bail for an accused in a criminal case (*see* Section 1.d.).

The Government stated that it held no political prisoners; however, opposition parties and human rights monitors claimed that many political activists were arrested and convicted for unfounded criminal charges (*see* Section 1.d.). NGOs did not have access to prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions except in cases of the SPA, which permitted them. Police, even in cases not affiliated with the SPA, rarely obtained warrants, and officers violating these procedures were not punished. Reporters Without Borders (RSF) claimed that police monitored journalists' e-mail. The police Special Branch, National Security Intelligence, and the Directorate General of Forces Intelligence employed informers to report on and conduct surveillance on citizens perceived to be political opponents of the Government.

The Government, on occasion, forcibly resettled persons. In 2002, a High Court bench stayed, for 3 months, a Ministry of Housing and Public Works order to dismantle slums in the Amtali section of Dhaka and ordered the Government to explain why it should not be directed to resettle the slum residents.

Police sometimes threatened members of the families of individuals who were wanted by police. During the year, there were instances of physical abuse or detention of family members by law enforcement personnel to extract information regarding wanted relatives.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and press, subject to what it deemed reasonable restrictions in the interest of security, friendly relations with foreign states, public order, decency and morality, or to prohibit defamation or incitement to an offense; however, in practice, the Government limited these rights.

Individuals were not always able to criticize the Government publicly without fear of reprisal, and the Government often attempted to impede criticism by prohibiting or dispersing political gatherings.

There were hundreds of both daily and weekly publications. Most newspapers reported critically on government policies and activities, including those of the Prime Minister. In addition to an official government-owned news service, there was one private news service affiliated with a major international company.

Despite this proliferation of news articles, in 2003 RSF reported that armed rebel movements, militias, or political parties constantly endangered the lives of journalists and that the Government did little to protect them, and instead, provided immunity to those responsible for violence.

Newspaper ownership and content were not subject to direct government restriction; however, the Government was able to influence journalists because it sponsored advertising and allocated cheap newsprint, central to the viability of many newspapers. Unlike in previous years, commercial firms were not as reluctant to advertise in newspapers critical of the Government. The Government owned and controlled most radio and television stations, and most of these stations focused the bulk of their coverage on the Government. Opposition party news often received little coverage in the government-owned media.

The Ministry of Information authorized one private radio station and three private television stations. Cable operators generally functioned without government

interference; however, all private stations were required to broadcast, without charge, some government news programs and speeches by the Prime Minister and the President as a condition of operation.

During the year, the Committee to Protect Journalists and RSF severely criticized the treatment and the security situation of journalists in the country. Attacks on journalists and newspapers, and efforts to intimidate them by the Government, political party activists, and others, occurred frequently during the year. Attacks against journalists by political activists were common during times of political violence, and some journalists were injured in police actions. According to Odhikar, 111 journalists were injured, 5 killed, 9 arrested, 2 kidnapped, 32 assaulted, and 293 threatened during the year. Additionally, 6 newspaper offices came under attack during the year. Also, editors and senior journalists allegedly received anonymous phone calls regarding published articles unfavorable to the Government; however, threats of explicit violence were rare in such calls.

On January 15, assailants killed Manik Chandra Saha, president of the Khulna Press Club and reporter for the New Age and the Sangbad newspapers, by targeting him with explosives. In March, police filed charges against alleged members of a left-wing group for Saha's death. On June 27, an explosion killed the editor of the Daily Janmabhumi; police placed responsibility on alleged leftists. Both cases were pending at year's end (*see* Section 1.a.).

On October 3, Dipankar Chakrabarty, the executive editor of the Daily Durjoy Bangla and vice president of a faction of the Bangladesh Federal Union of Journalists, died after being attacked on his way home from work. Three persons were arrested but freed on bail, and the case was pending at year's end.

The Government applied indirect pressure to coerce journalists into self-censorship. For example, on July 1, an official of the Prime Minister's press wing called a private television reporter and threatened to limit his access to ruling party functions if he did not stop covering an opposition candidate's campaign. The reporter was withdrawn from voting day coverage by his supervisors for failing to comply.

Foreign publications and films were subject to review and censorship. A government Film Censor Board reviewed local and foreign films and has the authority to censor or ban them on the grounds of state security, law and order, religious sentiment, obscenity, foreign relations, defamation, or plagiarism. Video rental libraries stocked a wide variety of films, and government efforts to enforce censorship on rentals were sporadic and ineffective.

The Government used censorship most often in cases of immodest or obscene photographs, perceived misrepresentation or defamation of Islam, and for objectionable comments regarding national leaders. On April 15, the Government confiscated the April 2 issue of the Indian magazine, Desh, for using indecent words about Adam and Eve. In April, the Government condemned and forbade Time magazine from being placed in government establishments, including on the national airline, Biman, because of its negative portrayal of the country.

Novelist Taslima Nasreen remained abroad after being freed on bond for criminal charges still pending against her for insulting Muslim beliefs (*see* Section 2.c.). In 2002, a court sentenced Nasreen in absentia to 1 year in jail for her "derogatory remarks about Islam" in a case filed in 1999 by a Jamaat-e-Islmani leader.

The Government did not directly restrict citizens' access to the Internet. RSF claimed police continued surveillance of journalist's e-mail (*see* Section 1.f.).

The Government did not limit academic freedom; however, research on sensitive religious and political topics was not encouraged.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, subject to restrictions in the interest of public order and public health; however, the Government frequently limited this right. The law allows the Government to ban assemblies of more than 4 persons, and, according to 1 human rights organization, the Government imposed 57 such bans during the year. The Government sometimes used bans to prohibit rallies for security reasons. On January 3, Piren Snal, a member of the Garo tribe in Madhupur forest in Tangail district, was killed as police and forest guards opened fire on a procession of tribal people protesting an eco-park project in the forestland. The Magistrate Court conducted a judicial investigation into the incident in response to a petition filed by Snal's family and dismissed the case on November 17 on the basis of insufficient information. Snal's family filed another petition contesting the legitimacy of the investigation's report, and the case was pending at year's end.

On March 11, pro-BNP activists, in tandem with police, attacked former president Badruddoza Chowdhury and his supporters, injuring more than 300 persons near Mohakhali in Dhaka as they were marching toward a downtown venue where Chowdhury was scheduled to launch a new political party. Police rarely interfered

with ruling party processions on any occasion, but police often used force to disrupt and discourage opposition processions. On February 12, police clubbed participants at an AL procession in Dhaka, causing injuries to dozens of activists, including Member of Parliament (M.P.) Ahsanullah Master, and Saber Hossain Chowdhury, political secretary to the AL president.

The Constitution provides for the right of every citizen to form associations, subject to "reasonable restrictions" in the interest of morality or public order, and the Government generally respected this right. Individuals were free to join private groups.

c. Freedom of Religion.—The Constitution establishes Islam as the state religion and also stipulates the right, subject to law, public order, and morality, to practice the religion of one's choice, and the Government generally respected this right in practice. Although the Government is secular, religion exerted a powerful influence on politics. Discrimination against members of religious minorities existed at both the governmental and societal level; however, there was no clear evidence of government persecution, although religious minorities were disadvantaged in practice in such areas as access to government jobs, political office, and access to justice.

Religious organizations were not required to register with the Government; however, all NGOs, including religious organizations, were required to register with the NGO Affairs Bureau if they received foreign funds for social development projects. The Government had the ability to cancel the registration of an NGO or to take other actions such as dissolving the executive committee of the NGO, freezing its bank accounts, or canceling projects; however, such powers rarely were used and did not affect NGOs with religious affiliations.

Discrimination against Ahmadiyas continued during the year. In January, the Government announced a ban on Ahmadiya publications in response to some Muslim groups' demand for the Ahmadiyas to be declared non-Muslims. In December, the High Court ordered a stay, effectively stopping the official enactment of the executive order. On two occasions, police seized books from Ahmadiya mosques in Dhaka and Patuakhali, and in January, in Khulna, a young man was briefly detained for carrying Ahmadiya leaflets. At times police allowed, and even assisted, demonstrators to remove signs referring to Ahmadiya mosques as mosques instead of as houses of worship.

As in previous years, the Government failed to prepare a list of property that was expropriated by the State from Hindus during partition in 1947.

The Government allowed various religions to establish places of worship, train clergy, travel for religious purposes, and maintain links with co-religionists abroad. The law permitted citizens to proselytize; however, strong social resistance to conversion from Islam meant that most missionary efforts by Christian groups were aimed at serving communities that had been Christian for several generations. Foreign missionaries were allowed to work in the country, but their right to proselytize was not explicitly protected by the Constitution. Some missionaries faced problems in obtaining visas or renewing visas, which must be renewed annually. Some foreign missionaries reported that internal security forces and others closely monitored their activities; however, no missionaries reported other government harassment during the year.

Discrimination against Ahmadiyas, Hindus, and Christians occurred during the year. In April, police failed to prevent Muslim demonstrators from destroying 12 houses belonging to Ahmadiyas and harassing 15 converted Ahmadiya men and women in a village in Rangpur. The converts were held against their will for several hours and pressured to renounce their new faith by some local Muslims. The Ahmadiyas appealed to the Government for protection in the face of threats from Khatme Nabuyat Movement and Aamra Dhakabashi, and on August 27, police arrested four leaders of Aamra Dhakabashi prior to their planned siege of the central Ahmadiya complex in Dhaka.

On January 1, according to press reports, armed attackers led by a local BNP leader allegedly set 20 houses belonging to Hindus on fire, injuring 30 persons. Victims alleged that the attack originated over a pending property dispute. On September 22, a group of Muslims set afire seven houses belonging to Hindus at Adam Sarkerpara village in Rangpur district. The alleged arsonists subsequently attacked those attempting to extinguish the fire and reportedly stole 18 cattle.

On September 18, unidentified assailants killed Dr. Joseph Gomes, a Christian convert, near his home in Jamalpur district. Police arrested a local madrasah teacher, Maulana Abdus Sobhan Munshi, alias Michha Munshi, for the killing, held him for 2 weeks, and released him. At year's end, no one else was charged for this crime.

In September, police arrested 18 persons, 2 of whom confessed, for the November 2003 arson in which 11 members of a Hindu family were killed in Chittagong. The

Government made no arrests, and none were expected in the December 2003 killing of an Ahmadiya leader in Jessore. On September 14, Ahmadiya leaders submitted a no-confidence petition to the court rejecting the police investigation report of the murder. The case was transferred from the local police to the Criminal Investigations Department of the police for investigation at year's end.

Religious minorities were disadvantaged in access to government jobs and political office. Selection boards in the government services often lacked minority group representation.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected these rights in practice; however, there were instances in which the Government restricted these rights.

On February 23, alleged members of a pro-Government group in Chittagong Hill Tracts (CHT) attacked a motorcade of eminent jurist and president of Gono Forum, Dr. Kamal Hossain, on his way to Rangamati to attend a rally organized by a tribal organization. Dr. Hossain and his entourage returned to Chittagong city due to lack of security. On February 26, AL president Sheikh Hasina's motorcade came under attack near Charkawa ferry station in Barisal.

On February 6, Immigration officials at Zia International Airport in Dhaka barred Jatiya Party chairman and former president Hossain Muhammad Ershad from traveling to the Maldives. Ershad claimed that immigration officials acted upon the instruction of higher authorities. Talks between the Government and the Jatiya party leaders resolved the problem, and Ershad was allowed to go abroad. In May, the Government refused permission for Shantu Larma, chairman of the CHT Regional Council, to leave the country to attend the third session of the U.N. Permanent Forum on Indigenous issues.

The country's passports were invalid for travel to Israel, and Salah Uddin Shoaib Chaudhury remained in prison for his attempted November 2003 travel to Israel.

The Constitution does not provide for exile, and it was not used.

There was a pattern of continued neglect of refugees, specifically towards the Bihari and Rohingya refugees. Approximately 300,000 non-Bengali Bihari Muslims who emigrated to the former East Pakistan during the 1947 partition of British India and who supported Pakistan during the 1971 War of Independence continued to live in camps throughout the country. According to Refugees International, they lived in camps in the country with little access to education, medical attention, and in unsanitary conditions. Some Biharis declined citizenship in 1972 and were awaiting repatriation to Pakistan, where the Government was reluctant to accept them. In May 2003, 10 Bangladesh-born Bihari residents of the Geneva Camp were granted voting rights when the High Court declared them citizens. Many of the stranded Biharis born after 1971 have assimilated into the mainstream Bengali-speaking environment and likely would accept citizenship if it was offered.

During the year, 20,291 Rohingya refugees remained in 2 camps administered by the Government in cooperation with the U.N. High Commissioner for Refugees (UNHCR). The Government continued to ignore UNHCR requests to allow Rohingya refugees unable to return to Burma to work, benefit from local medical programs, or participate in the educations system, insisting that all Rohingya refugees remain in camps until their return to Burma. The Government repatriated 210 refugees during the year.

The Government denied asylum to the Rohingya by categorizing them as illegal economic migrants and turned back as many persons as possible at the border. According to the UNHCR, some refugees returned by the Government were fleeing persecution and were entitled to refugee status. Some unregistered persons in the UNHCR camps returned illegally after their official repatriation to Burma, sharing food and lodging with relatives who received rations based on the number of registered members of the camps. On a number of occasions, camp officials handed some of the unregistered persons over to police, who sent them to prison under the Foreigners' Act. There were 109 Rohingya refugees in local prisons in the Cox's Bazar area at year's end. UNHCR officials visited the detained refugees once a month.

In June, to protest the Government's forced repatriation, mistreatment by police, auxiliary Ansar personnel, and Majhis (refugee community leaders selected by BDG camp officials to work as volunteers), some refugees in Kutupaalong camp staged demonstrations, refused their rations, and boycotted the government-run medical clinic. The demonstrators also demanded relocation of the camp to a site closer to Cox's Bazaar city to get better protection from UNHCR. The demonstrators attacked

an official of the World Food Program, prevented children from attending school, and stopped women from attending a self-help program. According to UNHCR, on June 6, police fired approximately 15 rounds into a group of several hundred protestors throwing stones during a regular night patrol. No injury was reported. In early September, the Government officially rejected a UNHCR proposal to grant the refugees rights for temporary stay and freedom of movement under a self-reliance program.

The Constitution does not provide for the granting of asylum or refugee status in accordance with the 1951 U.S. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. Working with the UNHCR, the Government provided temporary protection to individual asylum seekers whom the UNHCR interviewed and recognized as refugees on a case-by-case basis.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The country is a multiparty, parliamentary democracy in which elections by secret ballot are held on the basis of universal suffrage. M.P.s are elected at least every 5 years. The Parliament has 300 elected members. Party leaders appoint candidates for elections; some candidates allegedly purchased nomination from party leaders with generous campaign contributions or personal gifts.

Khaleda Zia, leader of the BNP, became Prime Minister following parliamentary elections in 2001, deemed to be free and fair by international and domestic observers. The 2001 elections, supervised by a nonparty caretaker government, took place in a climate of sporadic violence and isolated irregularities. The BNP formed a four-party alliance government with the Jamaat-e-Islami, Bangladesh Jatiya Party, and the Islami Oikko Jote. The political scene was dominated by two major parties, the BNP and the AL.

In June, the AL returned to Parliament after a year's boycott; however, the AL walked out of Parliament again in September, alleging the Speaker's biased role in favor of the ruling party. They later returned to Parliament in November.

Corruption remained a problem. Transparency International Bangladesh (TIB) indicated, in a report published in September, that systemic corruption posed a serious challenge to efforts to promote good governance. A TIB sample survey revealed that 90 percent of the population paid bribes to officials during land transfer registration; magistrates, court officials, and lawyers solicited bribes in more than 67 percent of the cases filed under the STA; and in Chittagong port, officials belonging to the port authority and customs extracted an estimated annual $133 million (taka 7.83 billion) in bribes from importers and exporters. The Official Secrets Act of 1923 protected corrupt government officials from public scrutiny, hindering transparency and accountability at all levels.

In November, the Government announced the formation of a 3-member Anti-Corruption Commission. At year's end, the commission was not fully functional.

There was no law providing for public access to government information. Instead, the Official Secrets Act protected government officials from scrutiny, typically in the name of national security.

There were 7 women in the 300-seat Parliament. On May 17, Parliament passed the 14th constitutional amendment bill, adding 45 parliamentary seats reserved for women. The seats were to be distributed among political parties proportionate to their numerical strength. The AL, which did not participate in the debate on adding the 45 seats, protested the amendment outside of Parliament, saying that it fell short of the promise to make a provision for women to be elected directly by the people. In October, Parliament passed a law detailing new election procedures; however, election of women to the seats did not occur by year's end. Some women's rights groups also protested the amendment on similar grounds and challenged its validity in the High Court.

There were four women holding ministerial positions, including the position of Prime Minister. As of October, 4 of the 79 judges in the Supreme Court were women.

There was no provision for providing seats for minorities. Members of minority groups constituted approximately 17 percent of the population but held less than 3 percent of the Parliamentary seats.

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

A wide variety of domestic and international human rights groups generally operated independently and without government restriction, investigating and publishing their findings on human rights cases. While human rights groups were often sharply critical of the Government, they also practiced self-censorship, particularly on politically sensitive cases and subjects. The Government pressured some individual human rights advocates by filing false allegations against them or by delaying reentry visas for international human rights activists. Missionaries who advocated on behalf of human rights faced similar problems. A few human rights activists reported harassment by the intelligence agencies. For example, the Government blocked foreign funding to the PRIP Trust because the organization's executive director, Aroma Dutta, championed minority rights during the 2001 general election.

During the year, the Government drafted legislation to impose stricter control on NGOs and prevent them from engaging in political activities. The Government, however, withdrew a draft bill from Parliament following protests by some NGOs and objections from some development partners.

On June 20, after arresting him on 15 separate occasions during the year, police filed a sedition case against Kazi Faruque Ahmed, president of the NGO Proshika, and six of his colleagues, implicating them in a plot to overthrow the Government in April. Police raided the Proshika headquarters several times and seized some documents. On July 26, Ahmed was released on bail. The Government targeted Proshika because the group allegedly helped the AL campaign in the last general election (*see* Section 1.d.).

On August 21, a RAB team arrested Rafiq Al Islam, president of the country's chapter of Non-Violence International, under Section 54. His name was later included on the list of accused in a case filed under the Arms Act. Islam, an antimine campaigner, remained free on bail after September 19, and his case was pending (*see* Section 1.d.).

The Government cooperated with international organizations such as the UNHRC and the ICRC; however, the ICRC did not visit the country during the year. In December, the Asia Pacific director of the UNHCR visited the country to investigate the status of the Rohingyas. Despite its election pledge and repeated public announcements, the Government did not enact legislation establishing an independent National Human Rights Commission.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination; however, the Government did not strongly enforce laws aimed at eliminating discrimination. Women, children, minority groups, and persons with disabilities often confronted social and economic disadvantages.

Women.—Domestic violence was widespread. Although violence against women was difficult to quantify because of unreliable statistics and societal inhibitions about reporting such violence, much of the reported violence against women was related to disputes over dowries. During the year, according to BNWLA, husbands killed 155 women and tortured 35 women. Odhikar found 166 reported dowry-related killings, and 78 reported dowry-related incidents of torture during the year. The law prohibits rape and physical spousal abuse but makes no specific provision for spousal rape as a crime. During the year, 896 rapes were reported; 117 victims were killed and 13 committed suicide after being raped. Human rights monitors insisted that the actual number of rapes was higher, as many rape victims did not report the incidents in order to avoid social disgrace. Prosecution of rapists was uneven. In September, four persons were sentenced to life imprisonment for gang-raping a girl in April 2003.

Prostitution was legal and remained a problem during the year. The minimum age of 18 for legal prostitution was commonly ignored by authorities and circumvented by false statements of age. Procurers of minors were rarely prosecuted, and large numbers of child prostitutes worked in brothels. UNICEF estimated that there were 10,000 child prostitutes working in the country, but other estimates placed the figure as high as 29,000 (*see* Section 5, Children).

Laws specifically prohibit certain forms of discrimination against women, provide for special procedures for persons accused of violence against women and children, call for harsher penalties, provide compensation to victims, and require action against investigating officers for negligence or willful failure of duty; however, enforcement of these laws was weak. In July 2003, an amendment to the current law was passed, weakening provisions for dowry crimes and addressing the issue of suicide committed by female victims of acts of dishonor.

According to government sources, the Social Welfare Department ran 6 homes for vagrants and 1 training center for destitute persons, with a total capacity of 2,300 individuals. In addition, the Women Affairs Department ran six shelters, one each in the six divisional headquarters, for abused women and children. In 2002, the Department opened a Safe Custody Center in Dhaka. The BNWLA also had two shelters in Dhaka, and other NGOs ran smaller facilities to provide shelter to destitute persons and distressed women and children; however, this was insufficient to meet victims' shelter needs. As a result, the Government often held women who filed rape complaints in safe custody, usually in prison. Safe custody frequently resulted in further abuses against victims, discouraged the filing of complaints by other women, and often continued for extended periods during which women were unable to gain release (*see* Section 1.c.). In September, there were 184 women in safe custody with 320 children accompanying them.

Incidents of vigilantism against women—sometimes led by religious leaders (by means of fatwas)—at times occurred, particularly in rural areas. These included punishments such as the whipping of women accused of moral offenses (*see* Section 1.c.). ASK reported 35 such cases during the year. For example, in October 26, in a village in Shatkira district, rural elites forced Papia Khatam from her village and ordered her not to return for 5 years because they concluded she gave birth to an illegitimate child found dead in a pond.

Acid attacks remained a serious problem. Assailants threw acid in the faces of women and a growing number of men, leaving victims disfigured and often blind. According to Odhikar, more than 300 persons fell victim to acid attacks during the year. Odhikar and Bangladesh Shisu Adhikar Forum reported that 191 of the attacks were against women, 65 against men, and 66 against children. Few perpetrators of the acid attacks were prosecuted. In 2002, the Government enacted legislation to control the availability of acid and reduce acid violence directed towards women, but lack of awareness of the law and poor enforcement limited its impact. The new Acid Crime Control Law provides for speedier prosecutions in special tribunals and generally does not allow bail. While the special tribunals were not entirely effective, during the year, according to the Acid Survivors Foundation, 36 persons were convicted of acid attacks.

Women remained in a subordinate position in society, and the Government did not act effectively to protect their basic rights. The Muslim Family Ordinance codifies traditional Islamic law concerning inheritance, marriage, and divorce for registered marriages. Marriages in rural areas sometimes were not registered because of ignorance of the law.

Employment opportunities were greater for women than for men in the last decade, largely due to the growth of the export garment industry, 80 percent staffed by women. Programs run by the Government and NGOs extending microcredit to rural women improved their economic power. Pay was generally comparable for men and women performing similar work.

No action was taken, and none was expected, in the deaths of 60 maidservants who died from alleged torture at the hands of their employers in 2003. According to a Public Administration Reforms Commission report in 2000, women held only 12 percent of government jobs, and only 2 percent of senior positions. The government policy to include more women in government jobs had only limited effect. In recent years, approximately 15 percent of all recruits into government service were women.

Children.—The Government was generally responsive to children's rights and welfare. Many of these efforts were supplemented by local and foreign NGOs, and these joint efforts allowed the country to make significant progress in improving health, nutrition, and education; however, slightly more than one-half of all children were chronically malnourished.

Under the law, children between 6 and 10 years of age must attend school through the fifth grade. Primary education was free and compulsory. The implementation of compulsory primary education fell short in part because parents kept children out of school, preferring instead to have them working for money or helping with household chores. Government incentives to families sending children to schools contributed significantly to the rise in the enrollments in primary schools in recent years. According to 2001 statistics provided by Campaign for Popular Education, 80 per cent of school-age children were enrolled in schools with almost an equal male-female ratio. In a 2002 report, they stated that 70 percent of the children completed education up to the fifth grade and that the dropout rate was 24.3 percent. According to Education Ministry statistics, 97 percent of school-age children were enrolled in primary schools during the year. The Government expanded incentives for female education by making education free for girls up to grade 12 and

using a stipend system from grades 6 to 12. Boys received free education only to grade 5.

There were a few government hospitals designated exclusively for children, and boys and girls had equal access to medical care in government hospitals.

According to human rights groups, 341 children were abducted, nearly 1,401 suffered unnatural deaths, and more than 660 children fell victim to serious abuses such as rape, sexual harassment, torture, and acid attack during the year. According to child rights activists, during the year, violence against children declined to some extent due to growing awareness regarding child rights.

Child labor remained a problem and frequently resulted in the abuse of children, mainly through mistreatment by employers during domestic service and occasionally included servitude and prostitution (*see* Sections 6.c. and 6.d.). Sometimes children were seriously injured or killed in workplaces. Reports from human rights monitors indicated that child abandonment, kidnapping, and trafficking continued to be serious and widespread problems. There was extensive trafficking of children (*see* Section 5, Trafficking).

According to a 2002 report published by the Government news agency Bangladesh Shongbad Shongsta, there were approximately 400,000 homeless children, of which as many as 150,000 had no knowledge of their parents. Few facilities existed for children whose parents were incarcerated.

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking was a serious problem. Trafficking in children for immoral or illegal purposes carries the death penalty or life imprisonment, and the Government took measures for the expeditious prosecution of traffickers. During the year, 43 cases were disposed of by the Special Courts dealing with incidents of repression against women and children. Accused persons in 33 of those cases were convicted and given punishment ranging from death to 10 years in prison. Besides police, the Coast Guard, Bangladesh Rifles (border guards), and the RAB, a number of NGOs recovered victims and assisted victims of trafficking.

According to government sources, law enforcement personnel recovered 147 victims of trafficking during the year. In 17 different incidents during the year, victims managed to escape from traffickers and reported to police. The Government returned 85 of the victims to their families, sent 9 to government homes, and transferred 19 to NGO-run shelters.

There was extensive trafficking in both women and children, primarily to India, Pakistan, Bahrain, the United Arab Emirates (UAE), Kuwait, and destinations within the country, mainly for prostitution and in some instances for labor servitude. Some boys were trafficked to the Middle East to be used as camel jockeys.

The BNWLA rescued 314 trafficking victims from within the country and repatriated 32 others from the UAE and India during the year. The number of persons arrested for trafficking was difficult to obtain, as charges against traffickers were sometimes for lesser crimes, such as crossing borders without proper documents. A 2002 newspaper report quoting statistics from the Center for Women and Children Studies (CWCS) stated that only 1 percent of trafficked children and 55 percent of kidnapped children were rescued between 2000 and 2002. According to the CWCS, most trafficked boys were under 10 years of age, while most trafficked girls were between 11 and 16 years of age.

The exact number of women and children trafficked was unknown, but some human rights monitors estimated that more than 20,000 women and children were trafficked annually from the country for prostitution; however, the Government did not support this figure. Most trafficked persons were lured by promises of good jobs or marriage, and some were forced into involuntary servitude outside of the country. Parents sometimes willingly sent their children away to escape poverty. Unwed mothers, orphans, and others outside of the normal family support system were also susceptible. Traffickers living abroad often arrived in a village to marry a woman, only to dispose of her upon arrival in the destination country, where women were sold by their new friends or husbands into bonded labor, menial jobs, or prostitution. Criminal gangs conducted some of the trafficking. The border with India was loosely controlled, especially around Jessore and Benapole, making illegal border crossings easy.

Human rights monitors credibly reported in the preceding years that police and local government officials often ignored trafficking in women and children for prostitution and were easily bribed (*see* Sections 1.c. and 5).

In previous years, there were reports that police corruption facilitated trafficking of women and children; however, there were no reports of this occurring during the year.

Many NGOs and community-based organizations worked on the problem of trafficking through prevention, research, data collection, documentation, advocacy, awareness creation and networking, cross-border collaboration, legal enforcement, and rescue, rehabilitation, and legislative reform. For example, Action Against Trafficking and Sexual Exploitation of Children, a national anti-trafficking network, worked to link NGOs and government agencies by establishing a resource center to disseminate data and provide technical support to grassroots organizations. The Association for Community Development conducted workshops and outreach programs to reach potential victims of trafficking before they were victimized. Over the past 3 years, because of the cooperation among NGOS and others involved, including the Government, a common, unified umbrella program was established to address the trafficking problem.

The Government developed a set of policies and plans regarding the trafficking issue and initiated a program across a number of ministries to address the problem. Arrests and prosecutions increased significantly, and the Government launched a major national anti-trafficking prevention campaign to increase awareness of the problem among vulnerable groups. Nevertheless, the Government's capacity to address this issue remained limited. Government projects included conducting awareness campaigns, research, lobbying, and rescue and rehabilitation programs. While the Government provided support for returning trafficking victims, government-run shelters were generally inadequate and poorly run.

In late May, the Government established a unit in the police headquarters to monitor counter-trafficking activities by law enforcement agencies. The cell started functioning in June. An interministerial committee headed by the Secretary of the Home Ministry regularly monitored the activities of the police cell and prosecution of the cases relating to trafficking. In early July, a Deputy Attorney General was designated to coordinate prosecution of the cases. The Government also formed monitoring units in each of the 64 district headquarters.

Despite constraints such as lack of birth and marriage records at the village level, some trafficking cases were prosecuted. There was also some success in increasing shelter capacity and developing rehabilitation programs.

Persons With Disabilities.—The law provides for equal treatment and freedom from discrimination for persons with disabilities; however, in practice, persons with disabilities faced social and economic discrimination. The law focuses on prevention of disability, treatment, education, rehabilitation and employment, transport accessibility, and advocacy.

The Ministry of Social Welfare set up a task force, composed of government officials and members of NGOs, who adopted an action plan at year's end to improve the overall welfare of the disabled.

Government facilities for treating persons with mental handicaps were inadequate. Several private initiatives existed in the areas of medical and vocational rehabilitation, as well as employment of persons with disabilities. During the year, at least four visually impaired persons were hired for government jobs.

Indigenous People.—Tribal people have had a marginal ability to influence decisions concerning the use of their lands. Despite the 1997 CHT Peace Accord, which ended 25 years of insurgency in the CHT, law and order problems and alleged human rights violations continued, as did dissatisfaction with the implementation of the Peace Accord. The Land Commission dealing with land disputes between tribal individuals and Bengali settlers did not function effectively in addressing critical land disputes. Tribal leaders remained disappointed with the lack of assistance provided to those who left the area during the insurgency.

Shantu Larma, a former insurgent leader, held talks with the Prime Minister in December 2003, building upon several similar sessions in 2002, to discuss implementation of the Peace Accord; however, violence continued in the CHT. According to a human rights organization, 41 persons died and 199 were injured in violence in the CHT during the year. During the same period, 127 persons were abducted, 3 were missing, and 106 were arrested.

During the year, the Parbatiya Chattagram Jana Sanghati Samity (PCJSS), which had spearheaded the insurgency and later signed the Peace Accord, blocked roads and observed general strikes, demanding early implementation of all the provisions of the accord. Extortion and kidnapping for ransom were rampant in the CHT.

PCJSS and the anti-accord tribal group, United People's Democratic Forum (UPDF), blamed each other for most of the abductions in Khagrachhari and Rangamati. On February 9, armed tribal youths abducted seven UPDF members from a wedding party at Shabekong in Naniarchar. There were also reports of violence involving Bengalis and tribal people in Rangamati.

The army withdrew an estimated two dozen camps from the CHT in partial fulfillment of the PCJSS demand for withdrawal of all army camps as required in the Peace Accord. Police have replaced the army in some of the camps.

Tribal people in other areas also reported loss of land to Bengali Muslims. In 2001, the Forestry Department inaugurated an eco-park on the lands inhabited by the predominantly Christian Khasi tribals in Moulvibazar. Although indigenous Khasis had lived on these lands for generations, the Government did not recognize their ownership. The Government claimed ownership and stated that the Khasis were occupying the land illegally. The Government slowly implemented the project during the year. In 2003, the Government started implementing the Modhupur National Park Development Project on Garo ancestral land without consulting the Garo people.

Other Societal Abuses and Discrimination.—The law provides for punishment for intercourse "against the order of nature with any man, woman or animal." In practice the law was rarely invoked; however, according to HRW, gay men were harassed and raped by police and local criminals without proper methods of recourse, due to societal discrimination against gays. HRW also found that gay men often faced threats of extortion. According to HRW, considerable official and societal discrimination existed against those who provided HIV prevention services, and against high-risk groups likely to spread HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right to join unions and, with government approval, the right to form a union; however, the Government did not always respect this right in practice. The total work force was approximately 58 million persons, of whom 1.8 million belonged to unions, most of which were affiliated with political parties. There were no reliable labor statistics for the large informal sector, in which the vast majority (75 to 80 percent) of citizens worked.

According to the law, a workplace must have 30 percent union participation for union registration. Would-be unionists technically are forbidden to engage in many activities prior to registration and legally are not protected from employer retaliation during this period. Labor activists protested that this requirement severely restricted workers' rights to organize, particularly in small enterprises and the private sector, and the International Labor Organization (ILO) requested the Government to amend the 30 percent provision. The ILO also requested that the Government amend provisions that bar registration of a union composed of workers from different workplaces owned by different employers. An estimated 15 percent of the approximately 5,450 labor unions were affiliated with 25 officially registered National Trade Union (NTU) centers. There were also several unregistered NTUs.

Unions were highly politicized, and unions were strongest in state-owned enterprises and in such institutions as the government-run port in Chittagong. Civil Service and security force employees were forbidden to join unions because of their highly political character. Teachers in both the public and the private sector were not allowed to form trade unions.

The Registrar of Trade Unions may cancel registration of a union with the concurrence of the Labor Court, but no such actions were known to have taken place during the year. There were provisions in the Industrial Relations Ordinance for the immunity of registered unions or union officers from civil liability. Enforcement of these provisions was uneven. In past illegal work actions, such as transportation blockades, police officers arrested union members under the SPA or regular criminal codes.

Trade unionists were required to obtain government clearance to travel to ILO meetings, but unlike in previous years, there were no known reports that clearances were denied during the year.

On May 7, union leader Ashan Ullah, executive president of the International Confederation of Free Trade Union (ICFTU) affiliated with the Jatiyo Sramik League, was shot and injured while addressing a rally in Tongi.

The ICFTU noted a number of exclusions of international trade union rights under the Industrial Relations Ordinance. These were restrictions regarding membership in unions and election of union officials, restrictions on activities of public servants' associations, restrictions on the right to organize and bargain collectively in export processing zones (EPZs), and restrictions on the right to strike.

b. The Right to Organize and Bargain Collectively.—The law does not explicitly ban discrimination by employers against union members and organizers and, in practice, private sector employers usually discouraged any union activity, sometimes working in collaboration with local police. The Registrar of Trade Unions rules on

discrimination complaints. In a number of cases, the Labor Court ordered the reinstatement of workers fired for union activities. However, the Labor Court's overall effectiveness was hampered by a serious case backlog. Alternative dispute resolution techniques began to be used to decrease the backlog.

Collective bargaining by workers is legal on the condition unions legally registered by the Registrar of Trade Unions as collective bargaining agents represent workers. Collective bargaining occurred occasionally in large private enterprises such as pharmaceuticals, jute, or textiles, but due to concerns over job security, most workers did not practice collective bargaining. Collective bargaining in small private enterprises generally did not occur.

The right to strike is not recognized specifically by the law, but strikes were a common form of workers' protest and are recognized as a legitimate avenue for addressing unresolved grievances by the Industrial Relations Ordinance of 1969. In addition, opposition political parties used general strikes to pressure the Government to meet political demands. Some employees organized in professional associations or unregistered unions went on strike during the year. Wildcat strikes were illegal but occurred, and wildcat strikes in the transportation sector were particularly common.

There were no updates to the November 2003 incident at the Pantex Factory, or the October 2003 case involving police harassment and beating of striking diploma nurses (*see* Section 6.a.).

The Essential Services Ordinance permits the Government to bar strikes for 3 months in any sector it declares essential. During the year, the Government continued to impose the Ordinance, originally applied in 2002, to the Power Development Board, the Dhaka Electric Supply Authority, Bangladesh Biman Airline, the Chittagong Port Authority, and the Bangladesh Petroleum Corporation.

In 2003, the Government announced it would not allow collective bargaining authority in jute mills during production time. In the past, the Government had applied this ban to national airline pilots, water supply workers, and shipping employees. The ban may be renewed for 3-month periods. The Government is empowered to prohibit a strike or lockout at any time before or after the strike or lockout begins and to refer the dispute to the Labor Court.

Mechanisms for conciliation, arbitration, and labor court dispute resolution are established under the Industrial Relations Ordinance. Workers have the right to strike in the event of a failure to settle. If the strike lasts 30 days or longer, the Government may prohibit it and refer the dispute to the Labor Court for adjudication, although this has not happened in recent years.

There are EPZs in the country. On July 14, Parliament passed a bill allowing limited freedom of association rights in EPZs. The country's five EPZs are exempt from the application of the Employment of Labor (Standing Orders) Act, the Industrial Relations Ordinance, and the Factories Act, thereby excluding workers in the zones from protection for their rights to organize and bargain collectively, and from coverage by laws governing wages, hours, and safety and health standards. While substitutes for some of the provisions of these laws are implemented through EPZ regulations, unions for the 128,915 workers are prohibited in the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or bonded labor, including by children; however, the Government did not enforce this prohibition effectively. The Factories Act and Shops and Establishments Act created inspection mechanisms to enforce laws against forced labor, but these laws were not enforced rigorously, partly because resources for enforcement were scarce. There was no bonded or forced labor in large-scale enterprises; nevertheless, numerous domestic servants, including many children, worked in conditions that resembled servitude and many suffered physical abuse, sometimes resulting in death. There continued to be numerous reports of violence against domestic workers. The Government sometimes brought criminal charges against employers who abused domestic servants. Many impoverished families settled instead for financial compensation. Trafficking of women and children was a problem (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Because of widespread poverty, many children began to work at a very young age. According to the Government's National Child Labor Survey published in November 2003, the Government estimated that approximately 3.2 million children between the ages of 5 and 14 years worked. Working children were found in 200 different types of activities, such as shrimp farming, of which 49 were regarded as harmful to children's physical and mental well-being. Sometimes children were seriously injured or killed in workplaces. For example, on January 17, a child age 13 died when he became stuck to a conveyer belt while he worked in a spinning mill at Savar.

Children often worked alongside family members in small-scale and subsistence agriculture. Hours usually were long, the pay low, and the conditions hazardous. Many children worked in the beedi (hand-rolled cigarette) industry, and children under 18 years sometimes worked in hazardous circumstances in the leather industry or the brick-breaking industry. An estimated 10,000 children worked long hours on fish farms on small islands in Southwestern Bagerhat district for 5 months a year in hazardous conditions. The farm owners paid and fed the children poorly. The Coast Guard periodically rescued and returned child workers to their home villages.

Children routinely performed domestic work. The Government sometimes brought criminal charges against employers who abused domestic servants. Under the law, every child must attend school through grade 5 or the age of 10 years. However, there was no effective mechanism to enforce this provision.

There was virtually no enforcement of child labor laws outside the export garment sector. Penalties for child labor violations were nominal fines ranging from an estimated $4 to $10 (taka 228 to taka 570). Most child workers were employed in agriculture and other informal sectors, where no government oversight occurred.

The Bangladesh Garment Manufacturers' and Exporters Association (BGMEA), the Department of Labor, and the ILO jointly inspected an estimated 4,000 BGMEA-member factories with the declared intention of eliminating child labor in the garment sector. The inspectors found 23 children working in 11 of those factories between January and August 25. Each factory having child labor was fined $100 (taka 5,900). According to the ICFTU, there was a significant reduction of child labor in the garment industry; while 43 percent of exporting factories used child labor in 1995, by 2001 the figure had fallen 5 percent to 38 percent. Former child employees were also offered a small monthly stipend to help replace their lost income while attending UNICEF-sponsored schools.

The Non-Formal Education Directorate of the Government, international organizations, and some NGO partners sponsored programs to provide education to some working children in urban slum areas around the country. The Government has been a member of ILO-IPEC since 1994. ILO-IPEC programs include a $6 million project to eliminate the worst forms of child labor in five targeted industries: beedi production, matchmaking, tanneries, construction, and child domestic workers. As of December 2003, 19,874 children had been removed from hazardous work, 19,508 were attending non-formal education training, 7,623 had been admitted to formal schooling, and 3,060 were receiving pre-vocational training. Employers from 51 beedi and brick-breaking industries have declared their sites child labor free.

e. Acceptable Conditions of Work.—There was no national minimum wage. Instead, the Wage Commission, which convenes every several years, sets wages and benefits industry by industry, using a range based on skill level. In most cases, private sector employers ignored this wage structure. For example, in the garment industry, many factories did not pay legal minimum wages, and it was common for workers of smaller factories to experience delays in receiving their pay or to receive trainee wages well past the maximum 3 months. In 2001, according to the ICFTU, 21.7 percent of textile workers in the country earned the minimum wage. Wages in the EPZs were generally higher than outside the zones. The declared minimum monthly wage for a skilled industrial worker was approximately $58 (taka 3,400) for a worker in an EPZ and approximately $45 (taka 2,650) for a worker outside an EPZ. This was not sufficient to provide a decent standard of living for a worker and family.

The law sets a standard 48-hour workweek with 1 day off mandated. A 60-hour workweek, inclusive of a maximum 12 hours of overtime, was allowed. The law was enforced poorly.

The Factories Act nominally sets occupational health and safety standards. The law is comprehensive but largely was ignored by employers. Workers may resort to legal action for enforcement of the law's provisions, but few cases actually were prosecuted. Enforcement by the Labor Ministry's industrial inspectors was weak, due both to the low number of labor inspectors and to endemic corruption and inefficiency among inspectors. Due to a high unemployment rate and inadequate enforcement of the laws, workers demanding correction of dangerous working conditions or refusing to participate in perceived dangerous activities risked losing their jobs.

BHUTAN

Bhutan is a hereditary monarchy. King Jigme Singye Wangchuck governs with the support of a National Assembly, a Cabinet, a Council of Ministers, and the Mo-

nastic Body, a 3,500-member institution headed by 4 representatives selected with the consent of the King. The King is the head of state and is responsible for matters relating to the country's security and sovereignty. There is no written constitution to protect fundamental political and human rights. A committee consisting of elected representatives, religious leaders, judicial and government officials continued to draft a constitution. Citizens voted for 105 of the 150 representatives in the National Assembly in 2003, with the remainder appointed by the King, the Buddhist clergy, and the Council of Ministers. The National Judicial Commission, a government-appointed body, oversees the judiciary.

The Royal Bhutan Police, under full control of the Government, has sole responsibility for the maintenance of internal security. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The economy was centrally directed. It was based primarily on agriculture, which provided the main livelihood for 80 percent of the population and accounted for approximately half of the gross domestic product (GDP); the population was approximately 800,000. Hydroelectric power production and tourism were key sources of revenue. The GDP growth rate was 6.5 percent, and wages generally kept up with inflation.

The Government's human rights record remained poor; although there were some improvements in a few areas, problems remained. The King exercised strong and direct power over security and sovereignty, though day-to-day governance was the responsibility of the Prime Minister and the Council of Ministers. The Government placed limitations on civil, political, and workers' rights. The Government prohibited political parties, and none operated legally. Unlike in previous years, there were no reports of arbitrary arrest or detention. The King, using recommendations from the National Judicial Commission, made judicial appointments to the High Court and District. The National Judicial Commission reviewed judicial reform and processed appointments to the bench. The authorities infringed on citizens' privacy rights. The Government restricted freedom of religion, speech, press, assembly, and association. A significant refugee problem persisted. The Government restricted worker rights.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The laws proscribe torture and abuse. Unlike in previous years, there were no reports of torture, cruel, inhuman or degrading treatment or punishment.

Prison conditions reportedly were Spartan. The International Committee of the Red Cross (ICRC) conducted two visits to the Lodrai Sub-district Jail and Chamgang Central Jail during the year. Prisoners incarcerated for political reasons were kept in areas separate from common criminals and men and women were kept in separate cells.

The Government and the ICRC signed a 5-year Memorandum of Understanding in 1998, and in September, the Government extended the ICRC prison visits program for another year, as it has done annually. The ICRC was allowed generally unhindered access to prisons. An exception was the country's denial of an ICRC request to visit Indian prisoners of war and assist in the evacuation of women and children stranded by fighting following the December 2003 military offensive against guerillas from the United Liberation Front of Asom (Assam) (ULFA), which had been using the country as a base of operations against India. All of the ULFA prisoners reportedly were turned over to Indian authorities.

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

Under the law, police may not arrest a person without a warrant and must bring an arrested person before a court within 24 hours, exclusive of travel time from place of arrest. Human rights activists alleged that legal protections were incomplete, due to deficiencies in police training and practice. The initiation of ICRC prison visits and the establishment of an ICRC mail service between detainees and family members helped to alleviate reports in previous years of incommunicado detention of prisoners.

According to the ICRC, of those persons detained in connection with political dissidence and violence in 1991–92, 70 continued to serve sentences after conviction by the High Court. Reports indicated that six of those detained in 1991–92 were re-

leased in 2003. There were no developments and none expected in the case of Damber Singh Pulami, a member of the banned Bhutan People's Party, arrested in 2001. Some Nepal-based refugees who reportedly returned to the country without authorization were subsequently arrested.

e. Denial of Fair Public Trial.—The judiciary is overseen by the National Judicial Commission, which was established in 2003. The King appointed a 39-member committee to draft a constitution in 2001, intended to establish a constitutional monarchy (*see* Section 3). The judicial system consists of three branches, the Sub-Divisional Court, the District Court, and a High Court. Only the King can pardon or commute a sentence. Judges to the High Court and twenty District Courts were appointed by the King on the recommendation of the National Judicial Commission and may be removed, suspended or censured by him, but only after the National Judicial Commission requests such action. The Chief Justice, using recommendations of the Judicial Service Council, made judicial appointments to the sub-divisional courts.

The Office of Legal Affairs (OLA) is the judicial support department of the Government and conducted state prosecutions, drafted and reviewed legislation, and rendered legal counsel. The OLA is composed of a Legal Services Division with domestic, international, and human rights sections, and a Prosecution Division, with a criminal section and a civil section.

Citizens generally had the right to a fair trial. Criminal cases and a variety of civil matters were adjudicated under both customary law and legal code established in the 17th century, revised in 1958 and 1965, and codified in 2001 as the Bhutan Civil and Criminal Procedure Code. State-appointed prosecutors filed charges and prosecuted cases for offenses against the State. In other cases, the relevant organizations and departments of government filed charges and conducted the prosecution. Defendants had the right to be presented with written charges in their own language, and to be given time to prepare their own defense. According to some political dissidents, this practice was not always respected.

There were reports that defendants received legal representation at trial, and could choose from a list of 165 government-licensed advocates to assist with their defense; however, it was not known how many defendants actually received such assistance. Defendants were also able to present their own cases. Village headmen, who had the power to arbitrate disputes, constituted the bottom rung of the judicial system. Magistrates, each with responsibility for a block of villages, could review the decisions of village headmen. Magistrates' decisions could be appealed to district judges, of which there was one for each of the country's 20 districts. The High Court in Thimphu is the country's Supreme Court.

Defendants have the right to appeal to the High Court and may make a final appeal to the King, who traditionally delegated the decision to the Royal Advisory Council. Trials were supposed to be conducted in open hearings, except for family law and cases involving juveniles. There was a legal requirement that citizens pay for their legal counsel; however, many citizens were unable to afford representation and thus, in practice, did not receive legal assistance in court.

Questions on family law such as marriage, divorce, adoption and child custody were addressed under the Marriage Act of 1980, amended in 1996.

Approximately 70 prisoners were serving sentences for offenses related to political dissidence or violence. Most were ethnic Nepalese who committed the alleged offenses during 1991–92, and may be political prisoners (*see* Section 1.d.).

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The laws do not provide for these rights, and according to human rights groups, police regularly conducted house-to-house searches for suspected dissidents without explanation or legal justification. The Government requires all citizens, including minorities, to wear the traditional dress of the ethnic majority in all public places, and strictly enforced this law for visits to Buddhist religious buildings, monasteries, government offices, in schools, and when attending official functions and public ceremonies; however, some citizens commented that enforcement of this law was arbitrary and sporadic (*see* Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Government restricted freedom of speech, and to a lesser extent, freedom of the press. The country's only regular publication was Kuensel, a weekly newspaper with a circulation of 15,000. It also reported stories on a daily basis through its on-line edition (kuenselonline.com). Kuensel was formerly government-run, and human rights groups stated that government ministries reviewed editorial material and suppressed or changed content. According to the Government, Kuensel was independent and funded entirely through advertising

and subscription revenue. Its board consisted of senior civil servants and private individuals. Kuensel was published in the English, Dzongkha, and Nepali languages, although the Nepali edition had a minimal circulation. It supported the Government but occasionally reported criticism of the King and of government policies in the National Assembly. Unlike in previous years, there were no reports that journalists working for Kuensel were subjected to government threats and harassment. The Government maintained that there were no restrictions on individuals starting new publications; it argued instead that the market was too small to support any. Foreign newspapers and magazines were available, but readership was in the hundreds and primarily limited to government officials. There were no reports of government restrictions on academic freedom.

The Government allowed television broadcasts of locally produced and foreign programs. There were 50 cable providers in the country with more than 15,000 subscribers. A large variety of programming was available, including CNN and BBC. The Government did not censor cable content. The radio station was government owned.

The Government did not restrict use of the Internet; however, the Government did regulate all material it considered pornographic. In May 2003, the Royal Bhutan University, comprised of 10 colleges, opened in Thimphu.

b. Freedom of Peaceful Assembly and Association.—The law does not provide for freedom of assembly and association and the Government restricted these rights in practice by not permitting the creation of political parties and organizations; however, the Government allowed civic and business organizations to function freely. The Government regarded political parties organized by ethnic Nepalese exiles—the Bhutan People's Party, the Bhutan National Democratic Party, and the Druk National Congress as "terrorist and antinational" organizations and declared them illegal. These parties, which sought the repatriation of refugees and democratic reforms, did not conduct activities inside the country.

c. Freedom of Religion.—The law provides for freedom of religion; however, the Government restricted this right in practice and Buddhism was the state religion. Approximately two-thirds of the population practiced either Drukpa Kagyupa or Ningmapa Buddhism.

The Government subsidized monasteries and shrines of the Drukpa sect and provided aid to approximately one-third of the Kingdom's 12,000 monks. The Government also provided financial assistance for the construction of Drukpa Kagyupa and Ningmapa Buddhist temples and shrines. Societal pressure for conformity with Drukpa Kagyupa norms was prevalent.

The King declared that major Hindu festivals were national holidays, and the royal family participated in them. However, there were no Hindu temples in Thimphu, despite the migration of many ethnic Nepalese to the city. NGOs reported that permission from the Government to build a Hindu temple was required but rarely granted. Followers of religions other than Buddhism and Hinduism generally were free to worship in private homes but could not erect religious buildings or congregate in public. International Christian relief organizations and Jesuit priests were active in education and humanitarian activities. Proselytization through financial and material inducement was illegal, and dissidents living outside the country claimed that the Government prohibited conversions. The Government denied the dissidents' claims, and asserted that any citizen was free to practice any religion openly.

According to dissidents living outside of the country, only Buddhist religious teaching was permitted in the schools. Some dissidents claimed that Buddhist prayer is compulsory in all government-run schools. Applicants for government services sometimes were asked their religion before services were rendered. All government civil servants were required to take an oath of allegiance to the King, the country, and the people. The oath did not have religious content, but was administered by a Buddhist lama (*see* Section 5).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law does not provide for these rights, and the Government placed some limits on them in practice. Citizens traveling in border regions were required to show their citizenship identity cards at immigration check points, which in some cases were located a considerable distance from what is in effect an open border with India. By treaty, citizens may reside and work in India. In addition, ethnic Nepalese claimed that they were frequently denied security clearances, which is a prerequisite for obtaining a passport form. The ethnic Nepalese said that since the clearances were based on the security clearance of their parents, the clearances fre-

quently excluded children of ethnic Nepalese. All citizens must have a security clearance from the Government.

The law neither provides for nor prohibits forced exile. Although the Government officially does not use formal exile, many political dissidents freed under government amnesties stated that they were released on the condition that they depart the country. The Government denied this. Many of those released subsequently registered at refugee camps in Nepal, and some relocated to India.

The law does not provide for the granting of asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol (*see* Section 5); however, the Government recognizes the right to asylum in accordance with international refugee law. The Government has not established a system for providing protection to refugees. There were no reports that the Government did not provide protection against refoulement, the return of persons to a country where they feared persecution.

During the mid- and late-1980s, citizenship became a highly contentious matter. Requirements for citizenship resulted in the denaturalization of many ethnic Nepalese residents of the country; however, residents who lost citizenship under the 1985 citizenship law were permitted to apply for naturalization if they were able to prove residence during the 15 years prior to that time. The Government declared all residents who could not meet the new citizenship requirements to be illegal immigrants. In addition, citizens who voluntarily emigrated lost their citizenship. Beginning in 1988, the Government expelled large numbers of ethnic Nepalese to enforce the new citizenship law.

Many of the ethnic Nepalese went to camps in Nepal where they remained. According to the U.N. High Commissioner for Refugees (UNHCR), over 100,000 ethnic Nepalese from the country have been living in 7 camps in southeastern Nepal since the early 1990s. Also, approximately 15,000 additional persons fled the country and now reside in the Indian states of West Bengal and Assam, but UNHCR has not accorded them refugee status. Since 1994, there have been an ongoing series of negotiations between Nepal and the country to resolve the Bhutanese refugee problem.

In June 2003, the Joint Verification Team (JVT), composed of representatives of both the country and Nepal, released verification results for one of the refugee camps, the Khudunabari camp. It identified 2.4 percent of the total camp population as eligible Bhutanese citizens, with the absolute right of return, 70.6 percent were "voluntary migrants," and would have to apply for citizenship in Bhutan if they chose to return, 24.2 percent were found to be "non-nationals" and could not return, and 2 percent were found to be criminals and would have to face charges if they returned to the country. The 2.4 percent categorized as Bhutanese citizens remained in Nepal at year's end. During the year, the Government did not restart the JVT process, citing concerns over the security situation in Nepal following an attack on its verification team members by refugees in Khudunabari camp in December 2003.

The Citizenship Act provided for the revocation of the citizenship of any naturalized citizen who "has shown by act or speech to be disloyal in any manner whatsoever to the King, country, and people of Bhutan." The Home Ministry later declared in a circular that any nationals leaving the country to assist "antinationals," and the families of such persons, would forfeit their citizenship. Human rights groups alleged that these provisions were used widely to revoke the citizenship of ethnic Nepalese who subsequently were expelled from or otherwise departed the country.

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

Citizens do not have the right to change their government. The country is a monarchy with sovereign power vested in the King. However, during the year, the 39-member Drafting Commission continued its consultations with international constitutional law experts. The Chief Justice of the High Court chaired the drafting committee, which was composed of representatives of the Monastic body, the people, the judiciary, and the Royal Government.

In 2003, citizens elected 105 members of the 150-member National Assembly. Of the remaining 45 seats, the Buddhist clergy selected 10, and the King appointed the remaining 35 members. The National Assembly has the power to remove ministers whom the King appoints, but it never has done so. Political authority has been devolved to the National Assembly, which can pass legislation; however, ultimate control still resided in the King and the Cabinet, which is composed of the Royal Advisory Council and the Council of Ministers.

The National Assembly, which convenes once a year, elects the Council of Ministers and the Royal Advisory Council. A special session, if necessary can be called at any time.

Each National Assembly constituency consists of a number of villages. Each village is permitted to nominate one candidate, and the vote is conducted by secret ballot, according to national election law. There is no provision for self-nomination, and the law states that no person may campaign for the candidacy or canvass through other means. Political parties were not allowed. Parties established abroad by ethnic Nepalese and Eastern Bhutanese were banned (*see* Section 2.b.).

In 2003, human rights activists claimed that the only time individual citizens have any involvement in choosing a National Assembly representative is when they were asked by the village headman for consensus approval of a village candidate. The activists claimed that district officials suggested candidates, who in turn take their direction from the central Government, and that consensus approval takes place at a public gathering. Human rights activists stated that there was no secret ballot; however, the Government refuted these allegations. According to the Government, a secret ballot was now mandatory, even if there was only one candidate.

All cabinet ministers are nominated by the King and elected by the National Assembly. A minister's term is limited to 5 years, after which he or she must pass a vote of confidence in the National Assembly to remain in office. The National Assembly, by a two-thirds vote of no confidence, can require the King to abdicate and to be replaced by the next person in the line of succession. The position of chairman rotates on a yearly basis, beginning with the minister who receives the most votes. The Chairman of the Council of Ministers also serves as Prime Minster and head of government. At year's end, Finance Minister Yeshey Zimba served as chairman and prime minister.

Corruption was a growing concern during the year; however, the Government took some steps to combat the problem. In December, the Government created the Public Accounts Committee in the National Assembly, an anti-corruption agency charged with monitoring how government funds were spent. The Government also instituted an anti-corruption fraud alert system where citizens could post information on corrupt practices on the Royal Audit Authority website.

There is no law providing for public access to government information.

There were 15 women in the 150-member National Assembly. There were 2 women in the High Court, 23 percent of civil service employees were women, and women held more than 30 percent of positions at the Ministry of Foreign Affairs. There was no provision for allocating a set number or percentage of parliamentary seats for women or members of minority groups.

All major ethnic groups were represented in the National Assembly, including 14 ethnic Nepalese. However, NGOs reported that ethnic Nepalese were underrepresented in the Assembly.

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

There were no legal human rights organizations in the country. The Government regarded human rights groups established by ethnic Nepalese exiles—the Human Rights Organization of Bhutan, the People's Forum for Human Rights in Bhutan, and the Association of Human Rights Activists-Bhutan—as political organizations and did not permit them to operate in the country.

ICRC representatives conducted a biannual prison visit, and the Government allowed them unhindered access to detention facilities, including those in southern districts inhabited by ethnic Nepalese.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law does not prohibit discrimination on the basis of race, sex, disability, language, or social status. In the past, the Government committed many abuses against ethnic Nepalese, which led to the departure of 100,000 of them. At the time, the Government claimed that it was concerned about the rapid population growth of and political agitation by the ethnic Nepalese. The Government claimed that ethnic and gender discrimination in employment was not a problem. It claimed that ethnic Nepalese filled 16 percent of the civil service or government employment, which was less than their proportion of the total population. Bhutanese human rights groups active outside the country claimed that ethnic Nepalese actually make up approximately one-third of the country's population, and that the Government underreported their numbers. The Government stated that 25 percent of the population was ethnic Nepalese. Ethnic Nepalese claimed they were subject to discrimination and prejudice.

Women.—The law does not specifically prohibit domestic violence against women; however, the provisions of criminal law generally cover such crimes. There was no evidence that rape or spousal abuse were extensive problems. However, NGOs re-

ported that many women did not report rape because of cultural taboos or because they were unaware of their legal options.

The Rape Act contains a clear definition of criminal sexual assault and specified penalties. In cases of rape involving minors, sentences range from 5 to 17 years in prison. In extreme cases, a rapist may be imprisoned for life. There were few reported instances of sexual harassment.

Women were accorded respect in the traditions of most ethnic groups and participated freely in the social and economic life of the country. Inheritance law provides for equal inheritance among all sons and daughters, but traditional inheritance practices, which vary among ethnic groups, may be observed if the heirs choose to forego legal challenges. Dowries were not customary, even among ethnic Nepalese Hindus. Among some groups, inheritance practices favoring daughters reportedly accounted for the large numbers of women who owned shops and businesses and for an accompanying tendency of women to drop out of higher education to go into business. However, female school enrollment has been growing in response to government policies and it was 47 percent. Women in unskilled jobs generally were paid slightly less than men in the same positions. Women constituted approximately 30 percent of the formal work force.

Questions related to family law, including divorce, child custody, and inheritance were adjudicated by the Marriage Act of 1996. The minimum age of marriage for women was 18 years. The law provides for equal treatment for both men and women; however, the application of different legal practices based on membership in a religious or ethnic group often resulted in discrimination against women. Polygamy is allowed, provided the first wife gives her permission. Polyandry is permitted but rare. Marriages may be arranged by the marriage partners themselves as well as by their parents. Divorce was common. The law requires that all marriages be registered.

The National Women's Association of Bhutan has been active since 1981 and has tried to encourage women to improve their living standards and socio-economic status. A National Commission on Women and Children was established during the year to promote the rights of women and children.

Children.—The Government demonstrated its commitment to child welfare by rapidly expanding the number of primary schools, healthcare facilities, and immunization programs. For example, the King established the Youth Development Fund in 1998 to provide assistance for ongoing and new youth activities and programs. The Government provided free and compulsory primary school education, and primary school enrollment increased 9 percent per year since 1991, with enrollment of girls increasing at an even higher rate. During the year, the participation rate for children in primary schools was estimated at 85 percent, with the rate of completion of 7 years of schooling at 86 percent for girls and at 73 percent for boys. There is no law barring ethnic Nepalese children from attending school. However, many primary schools in southern areas heavily populated by ethnic Nepalese were closed in 1990 and remained closed. The closure of the schools effectively barred ethnic Nepalese in southern areas from obtaining primary and secondary education. Dissidents claimed that the few schools operating in the south gave preference to the children of government officials and members of the security forces. The shortage of places in these schools often forced local inhabitants to send their children to other areas of the country for schooling.

The Government denied security clearance forms to children of ethnic Nepalese who the Government claimed were "anti-nationals." Exile groups claimed that Nepalese secondary-level students scoring highly on national exams were not always given the same advantages as other students (such as the chance to study abroad at government expense), particularly if they were related to prominent dissidents or refugees. This allegation was based on the fact that they were denied the security clearance necessary to obtain a passport for travel abroad. The Government refuted this claim, stating that all scholarships were merit based.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country. In September 2003, Bhutan ratified the South Asian Association for Regional Cooperation (SAARC) convention on preventing and combating trafficking in women and children for prostitution.

Persons With Disabilities.—The law does not specifically protect the rights of citizens with disabilities, nor does it mandate access to buildings; however, there was no evidence of official discrimination against persons with disabilities with regard to employment, education, access to health care, or in the provision of other state services.

National/Racial/Ethnic Minorities.—After the expulsion of many ethnic Nepalese in the early 1990s, discriminatory measures with regard to ethnic minority communities continued. The law requires that the national dress be worn for official occasions and as a school uniform, and that Dzongkha be taught as a second language in all schools. No instruction in Nepali as a second language was required or offered.

Drukpa Bhutanese have been resettled in the southern part of the country on land vacated by the ethnic Nepalese living in refugee camps in Nepal (*see* Section 2.d.). Human rights groups maintained that this prejudiced any eventual outcome of negotiations over the return of the refugees to the country. The Government maintained that citizens who are ethnic Nepalese from the south sometimes were resettled on more fertile land in other parts of the country. The failure of the Government to facilitate the return of ethnic Nepalese refugees has tended to reinforce societal prejudices against this group, as has the Government's one-time only policy on the forced retirement of refugee family members in government service and the resettlement of Drukpa on land vacated by expelled ethnic Nepalese in the south. The Government claimed the resettlement scheme was part of a nationwide program to discourage migration to urban centers and reduce landless people's dependence on migrant farming.

Section 6. Worker Rights

a. The Right of Association.—The law does not allow workers to form or join unions and there were no labor unions. The Government maintained that, with very little industrialization, there was little labor to be organized. The total labor force numbered approximately 412,000 persons, of whom 279,000 worked in rural areas. In 2003, a Ministry of Labor was established to analyze the country's labor situation and provide vocational training.

b. The Right to Organize and Bargain Collectively.—The law does not authorize collective bargaining or the right to strike, and the Government was not a member of the International Labor Organization. Industry accounted for approximately 25 percent of the GDP but employed only a minute fraction of the total work force. The country lacked a large pool of ready labor; for major projects, such as road works, the Government brought in hired laborers from India.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Government prohibits forced or compulsory labor and there were no reports that such practices occurred. However, voluntary community service was often practiced, which included building local roads, schools and hospitals. The system of mandatory national work service was abolished in 1996; however, NGOs stated that this practice was still administered selectively. For instance, NGOs believed the practice often selected poor agricultural workers at the height of the harvesting season. There was no evidence to suggest that domestic workers were subjected to coerced or bonded labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—There is no minimum age for employment; however, the minimum age of 18 was established "in all matters of the state." Children often performed agricultural work and chores on family farms. The law does not specifically prohibit forced or compulsory labor by children, but there were no reports that such practices occurred. As a state party to the U.N. Convention on the Rights of the Child, the Government supported the provisions contained therein.

e. Acceptable Conditions of Work.—A 1994 circular established wage rates, rules and regulations for labor recruiting agencies. It also established the regulations for payment of worker's compensation. Wage rates were revised periodically, and range upward from a minimum of roughly $2.50 (100 ngultrums) per day plus various allowances paid in cash or kind. This minimum wage provided a decent standard of living for a worker and family. The workday was defined as 8 hours with a 1-hour lunch break, and employers must grant regular days of leisure. Work in excess of this must be paid at one and one-half times normal rates.

The largest salaried work force was the government service, which had an administered wage structure last revised in 1988 but supplemented by special allowances and increases. The last such increase was in 1999. Civil Service regulations require equal pay for equal work for men and women. According to the latest Census of Manufacturing Industries, only 38 industrial establishments employed more than 50 workers. The Government favored family-owned farms. Land laws prohibit a farmer from selling his or her last 5 acres and require the sale of holdings in excess of 25 acres. This, along with the country's rugged geography, resulted in a predominantly self-employed agricultural workforce. Workers are entitled to free medical care. Persons who could not receive adequate care within the country were flown to other countries (usually India) for treatment. Workers are eligible for compensation for

partial or total disability, and, in the event of death, their families are entitled to compensation. Existing labor regulations do not grant workers the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment.

INDIA

India is a longstanding parliamentary democracy with a bicameral parliament. The Head of State is President A.P.J. Abdul Kalam, who was elected in 2002 by an electoral college consisting of Members of Parliament (M.P.s) and members of state assemblies. Prime Minister Atal Bihari Vajpayee, whose Bharatiya Janata Party (BJP) led a multiparty coalition, headed the Government until May. Manmohan Singh was named Prime Minister following the victory in the April-May general elections of his Congress-led coalition. The general elections, and the October State Assembly elections held in Andhra Pradesh, Sikkim, Karnataka, Madhya Pradesh, Orissa, Arunachal Pradesh, and Maharashtra were considered free and fair, despite scattered episodes of violence. The judiciary is independent; however, it faced a serious backlog, and nongovernmental organizations (NGOs) alleged that corruption influenced some court decisions.

Although the 28 state governments have primary responsibility for maintaining law and order, the central Government provides guidance and support. The Ministry for Home Affairs controls most paramilitary forces, the internal intelligence bureaus, and the nationwide police service, and provides training for senior police officers of the state-organized police forces. The civilian authorities maintained effective control of the security forces. Members of the security forces committed numerous serious human rights abuses.

The country continued its transition from a government-controlled to a largely market-oriented economy. The private sector was predominant in agriculture, most non-financial services, consumer goods manufacturing, and some heavy industrial sectors. The economic growth rate during the year was approximately 7 percent. A 1.7 percent annual population growth rate, and a population that surpassed 1.03 billion, according to the most recent census figures of 2001, compounded the country's economic problems. Wages and benefits kept pace with inflation. On December 26, a large-scale tsunami devastated parts of the southeastern coastal areas of the country, killing, injuring and displacing thousands of persons.

The Government generally respected the human rights of its citizens; however, numerous serious problems remained. Police and security forces were sometimes responsible for extrajudicial killings, including staged encounter killings, and custodial deaths. Government officials often used special antiterrorism legislation to justify the excessive use of force while combating active insurgencies in Jammu and Kashmir and several northeastern states. Security force officials who committed human rights abuses generally enjoyed de facto legal impunity, although there were numerous reports of investigations into individual abuse cases as well as punishment of some perpetrators. Other violations included: torture and rape by police and other government agents; poor prison conditions; lengthy pretrial detention without charge; prolonged detention while undergoing trial; occasional limits on press freedom and freedom of movement; harassment and arrest of human rights monitors; extensive societal violence and legal and societal discrimination against women; forced prostitution; child prostitution and female infanticide; trafficking in women and children; discrimination against persons with disabilities; serious discrimination and violence against indigenous people and scheduled castes and tribes; widespread intercaste and communal violence; religiously motivated violence against Muslims and Christians; and widespread exploitation of indentured, bonded, and child labor.

Separatist guerrillas in Kashmir and the Northeast committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. They also engaged in torture, rape, and other forms of violence, including beheadings, kidnapping, and extortion.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Arbitrary and unlawful deprivation of life by government forces (including deaths in custody and staged encounter killings) continued throughout the year. The highest incidences were in Uttar Pradesh, Andhra Pradesh, Bihar, Chhattisgarh, as well as states with ongoing

insurgencies such as Jammu and Kashmir, Manipur, and Assam. Security forces offered bounties for wanted militants. Police and prison officers also committed extrajudicial killings of criminals and suspected criminals in a number of states. Militant groups killed members of rival factions, government security forces, government officials, and civilians in Jammu and Kashmir, several northeastern states, and in the Naxalite belt in Eastern India (particularly Andhra Pradesh, Chhattisgarh, Jharkhand, Bihar, and West Bengal).

The Home Ministry reported that militant attacks in Jammu and Kashmir declined from the previous year, with 733 civilians (including 92 women, 32 children, and 62 political workers), 330 security force members and 976 militants killed during the year. Human rights groups alleged that security forces killed numerous captured non-Kashmiri militants from Pakistan or other countries, often after torturing them, and staged many encounters, summarily executing suspected militants and civilians believed to be assisting them. There were no widely accepted data on the magnitude of the problem of extrajudicial killings in Jammu and Kashmir, with estimates or reports largely depending on the political orientation of the source. The Jammu and Kashmir State Human Rights Commission reportedly received 15 complaints relating to custodial deaths in 2003 and 27 complaints relating to disappearances. Human rights organizations sought to clarify these cases by submitting numerous requests to Jammu and Kashmir authorities in recent years, but received inadequate and unsatisfactory responses.

According to human rights activists, press reports, and anecdotal accounts, the bodies of persons detained by security forces in Jammu and Kashmir were often returned to relatives or otherwise discovered with multiple bullet wounds and/or marks of torture. The South Asian Human Rights Documentation Center (SAHRDC) reported that the total number of such custodial deaths decreased slightly during the year, but remained a serious problem.

There were no developments in the 2003 case of Mohammed Ashraf Malik who was found dead in a forest in Jammu and Kashmir after having been in Rashtriya Rifles (a paramilitary unit) custody.

In February in the Bandipora area of north Kashmir, five civilian porters were killed after security forces allegedly used them as human shields in a gunfight with militants. The incident led to widespread demonstrations and rioting. Following the incident, Army Chief of Staff General N.C. Vij announced that the Army would no longer use civilian porters in combat operations. On March 31, State Finance Minister Muzaffar Beig and Northern Commander Lt. General Hari Prasad reported that those responsible for the incident had been punished, but gave no details.

In June, Gujarat police killed three men and a woman, alleged to have been on a mission to kill Gujarat Chief Minister Narendra Modi. The National Human Rights Commission (NHRC) asked the Director General of Police and Senior Superintendent of Police in Ahmedabad to investigate. Human Rights activists challenged police allegations that these persons were linked to this plot, but the case was never fully resolved. A Gujarat court later dismissed charges against 13 other persons implicated in this case due to lack of evidence. The family members of those killed did not file petitions claiming the killings were extrajudicial, and no action was taken against police involved in the killing.

On July 11, Manorama Devi, an alleged member of the People's Liberation Army (PLA) in the northeastern state of Manipur, died while in the custody of the Assam Rifles, a paramilitary unit in the state. Officials initially denied that Devi was killed, tortured, or raped, but the postmortem found that she died of multiple gunshot wounds, was bleeding from the vagina, and had a perforated liver and gall bladder, among other injuries, and forensic tests detected semen stains on her clothes. The case prompted demonstrations and riots, and led to a serious deterioration of the security situation in Manipur. The National Commission for Women (NCW) publicized the case, and the Army ordered an investigation; however, by year's end, culpability for her death had not been established.

Prosecutions in custodial death cases were often subject to lengthy delays. In February, for instance, a Delhi police constable was sentenced to life imprisonment for a custodial death at Lahori Gate police station that occurred 12 years earlier.

The national and Jammu and Kashmir state governments took initial steps to respond to charges that authorities have not been transparent in their treatment of human rights violators, and that those who committed abuses enjoyed impunity. In March, the press reported that the Jammu and Kashmir Government had opened investigations into 37 cases of alleged deaths in custody and disappearances reported since the Government took office in 2002. In April, Chief of Army Staff General N.C. Vij reported that of 1,340 allegations of human rights abuses reportedly committed from 1990–2000 in Jammu and Kashmir, 33 were substantiated by evidence, and 71 personnel had been punished. In May, the NHRC reported that dur-

ing the past 14 years of insurgency in Jammu and Kashmir, the Army had punished 131 of its personnel for human rights violations, giving 2 life sentences and 33 others jail terms of 11 to 12 years, dismissing 11 personnel from the military, and ordering various other punishments to the remainder.

A Senior Superintendent of Police in Jammu and Kashmir who was suspended in July 2003 for allegedly falsifying the DNA samples of five civilians killed in 2000 in staged encounters in Chattisingpora, Anantnag District, appealed the decision to the Central Administrative Tribunal. By year's end, there were no developments in this case.

According to local press reports, the number of persons killed in encounter deaths varied widely throughout the country; however, members of the security forces were rarely held accountable for encounter killings.

Human rights activists maintained that in cases of illegal conduct, the Government increasingly substituted financial compensation to victims' families for punishment of security officers. In some instances, victims or their families distrusted the military judicial system and petitioned to have their cases transferred from a military to a civil court. The NHRC has no jurisdiction over any courts, including military courts.

In May, the Ministry of Home Affairs ruled in favor of the NHRC, which had challenged the military position that its forces were exempt from paying compensatory damages for human rights violations, and ordered $4,200 (Rs 200,000) compensation be paid to the next of kin of two people killed by a Border Security Forces (BSF) guard in Rajasthan in 2000.

Although the authorities generally did not report encounter deaths that occurred in Jammu and Kashmir to the NHRC, the Association of Parents of Disappeared Persons (APDP) reported that as of June, there were 54 custodial deaths since the Jammu and Kashmir state government assumed office in November 2002.

According to the NHRC, by August, 45 deaths in police custody and 438 deaths in judicial custody occurred throughout the country. Uttar Pradesh ranked the highest, with 6 custodial deaths.

During the year, the killing of civilians continued during counterinsurgency operations in Jammu and Kashmir. Human rights activists stated that accurate numbers were not available due to limited access to the region. In 2003, the Home Ministry reported 28 civilians killed, between April and June, and Amnesty International (AI) alleged that over 340 were killed during the year.

The Armed Forces Special Powers Act (AFSPA) and the Disturbed Areas Act remained in effect in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura, where active secessionist movements existed. The Disturbed Areas Act gives police extraordinary powers of arrest and detention, and the AFSPA provides search and arrest powers without warrants (*see* Section 1.d.). Human rights groups alleged that security forces operated with virtual impunity in areas under the Act.

Accountability by the Jammu and Kashmir Government remained a serious problem. Indian human rights groups estimate that 30,000–35,000 persons have died during the conflict in Jammu and Kashmir, but there were no reliable estimates of the number of deaths resulting directly from abuses. Security forces have committed thousands of serious human rights violations over the course of the 15-year insurgency, including extrajudicial killings, disappearances, and torture (*see* Sections 1.b. and 1.c.).

In December 2003, the Jammu and Kashmir Chief Minister reported that there had been 8 custodial deaths in the state during the year, compared to 11 in 2001. According to the authorities, many died from natural causes aggravated by poor prison conditions (*see* Section 1.c.).

Human rights groups noted that police officials often refused to turn over the bodies of dead suspects in cases of suspected staged encounters. The bodies of dead suspects were often cremated before their families could view them. In 2002, the Supreme Court ordered the central government and local authorities to conduct regular checks on police stations to ascertain the incidence of custodial violence; however, the overwhelming majority of police stations failed to comply. There were reports of deaths in custody resulting from alleged torture or other abuse.

Deaths in custody were common both for suspected militants and criminals. The Home Ministry reported that, nationwide, deaths in custody had increased from 1,340 in 2002 to 1,462 by the end of 2003. According to the NHRC, state governments had not investigated at least 3,575 previous deaths in custody cases.

On August 10, police officials initially admitted that Khwaja Yunus, accused of a December 2, 2002, terrorist bombing in Ghatkopar, a suburb of Mumbai, died while in police custody in January 2003. An eyewitness saw police officers beating and kicking Yunus shortly before his disappearance. Police later maintained that Yunus escaped from police custody and is currently at large. In August 18 testimony

to the state assembly, the Maharashtra Home Minister stated that there had been 439 custodial deaths in the state in the past 3 years, including 58 deaths in police custody and 381 in judicial custody.

Human rights activists reported during the year that compliance varied from state to state regarding a directive issued by the NHRC in 1993 requiring district magistrates to report all deaths in police and judicial custody to the commission. The NHRC regarded failure to do so as an attempted cover-up. The NHRC has not released information on how many or which states have complied with the directive; however, no state fully complied with this order at year's end.

During the year, a few state governments took some measures regarding custodial deaths. The Director General of Police for the state of Punjab reported that his agency investigated the deaths of five persons in police custody and determined that police were innocent in three cases; he initiated criminal proceedings for the other two.

In June, a court in Calcutta sentenced five police officers to life imprisonment for killing a traffic sergeant who had protested their harassment of a young girl in December 2003.

In Jammu and Kashmir, members of paramilitary forces who succeeded the former Special Operations Group (SOG) of the state police continued to commit human rights violations. In an attempt to reduce these violations, and to fulfill campaign pledges, the state government in 2003 subordinated SOG members to regular police units, although politicians and others continued to refer to them as "SOG." Jammu and Kashmir police officials reported that they also charged 53 former SOG members with human rights violations and removed 25 of them from duty since the state government took office in November 2003. Despite the purported integration of former SOG personnel into regular police units, during the year, former SOG personnel continued to operate in cohesive anti-insurgency units, and regular reports of human rights violations by its members persisted. For example, on August 19, a unit consisting of former SOG personnel, in coordination with the BSF, raided the house of Manzoor-ul Islam, a suspected militant, and allegedly took him into custody. The unit later reported him killed in an encounter the following day.

Killings and abductions of suspected militants and other persons by progovernment countermilitants continued to be a significant problem in Jammu and Kashmir. Countermilitants were former separatist guerillas who surrendered, but who were permitted by the Jammu and Kashmir Government to retain their weapons and paramilitary organization and were inducted into police auxiliary units. Government agencies funded, exchanged intelligence with, and directed the operations of countermilitants as part of the counterinsurgency effort.

Countermilitants occasionally searched persons at roadblocks (*see* Section 2.d.) and were present in some rural areas of the Kashmir Valley; their number has declined substantially since the 1990s. The Jammu and Kashmir Government, through its sponsoring and condoning of extrajudicial countermilitant activities, was responsible for killings, abductions, and other abuses committed by these groups. According to a human rights activist in Jammu and Kashmir, there were between 300–400 countermilitants operating in the region during the year.

Violence, often resulting in deaths, was a pervasive element in Jammu and Kashmir politics (*see* Section 3). Separatist guerrillas attempted to kill numerous senior politicians, making several attempts against Chief Minister Mufti Mohammed Sayeed, People's Democratic Party leader Mehbooba Sayeed, National Conference President Omar Abdullah and his father, former Chief Minister Farooq Abdullah, as well as many ministers and dozens of other rank-and-file activists in an array of political parties. By the end of the year, the number of politicians and political workers killed by militants and terrorists exceeded 30.

Countrywide, there were allegations that military and paramilitary forces engaged in abduction, torture, rape, arbitrary detention, and the extrajudicial killing of militants and noncombatant civilians, particularly in areas of insurgency (*see* Sections 1.b., 1.c., 1.d., and 1.g.).

The number of persons killed and injured in militant violence in the northeastern states was significant. Numerous encounters involving security forces and militant organizations such as the United Liberation Front of Asom (ULFA), the National Democratic Front of Bodoland (NDFB), and the United People's Democratic Solidarity (UPDS) continued.

The press published frequent reports of gruesome killings of civilians by militants in Jammu and Kashmir, including beheadings, amputation of limbs, and other atrocities. In January, militants beheaded photographer Farooq Ahmad Mirza after shooting his wife in the presence of their minor sons in Pulwama district in south Kashmir (*see* Section 2.a.).

In the northeastern states, insurgency and ethnic violence continued to be a problem. According to human rights activists and journalists during the year, a few Naxalites (Maoist guerillas) in eastern and central parts of the country (including Madhya Pradesh, Andhra Pradesh, West Bengal, Bihar, Chhattisgarh, Jharkhand, parts of Uttar Pradesh, and Maharashtra) who surrendered, retained their weapons and worked for the police as anti-People's War Group (PWG) officers. Human rights groups alleged that police used former Naxalites to kill current Naxalites and human rights activists with close links to the PWG, although police attributed such killings to internal feuds within the PWG. Several hundred PWG militants surrendered during the year.

Militant groups in the Northeast continued to attack civilians. For example, members of ULFA took responsibility for an August 15 Independence Day bomb attack in the town of Dhemaji, which killed 13 civilians, including 10 schoolchildren (*see* Section 1.g.).

b. Disappearance.—There were no confirmed reports of politically motivated disappearances due to action by government forces; however, scores of persons disappeared in strife and militancy-torn areas during the year.

In June 2003, the Jammu and Kashmir government reported that 3,931 persons had disappeared in the state since the militancy began in 1990. This figure contrasted with that given by the Association of Parents of Disappeared Persons (APDP), which put the number at more than 8,000. In May, the Government reported that many of those listed as missing by the APDP in March of 2003, had joined insurgent groups, had been killed, were in custody, or were in Pakistan.

In May, an army patrol in Jammu and Kashmir arrested Mohammad Hussain Ashraf, who reportedly had a mental disorder, after he ran away from the soldiers. The soldiers reportedly beat Ashraf before taking him to Khrew army camp. Later the same day, the man's parents learned of his detention and went to the camp to secure his release. Army personnel told them he was in their custody and would be released. On June 7, the Army reportedly stated that they had released Ashraf after a short detention, and at year's end his whereabouts were unknown.

The Jammu and Kashmir State Human Rights Commission instructed the police to furnish all details about a youth, Wasim Ahmad Rather, who disappeared on June 14 in the Anantnag region of the state. The child's parents asserted that police had arrested him, and they had not seen him since. The police denied that they arrested the boy. No further action had been taken at year's end.

Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, several hundred persons were held by the military and paramilitary forces in long-term unacknowledged detention in interrogation centers and transit camps intended only for short-term confinement. Human rights activists feared that many of these unacknowledged prisoners were subjected to torture and some were killed extrajudicially (*see* Sections 1.a. and 1.c.).

The Government maintained that screening committees administered by the state governments provided information about these detainees to their families. However, other sources indicated that families could only confirm the detention of their relatives by bribing prison guards. In 2002, the state government of Jammu and Kashmir implemented a screening system to review detention cases and release numerous detainees (*see* Section 1.d.). In March 2003, the Joint Screening Committee in Jammu and Kashmir recommended the release of 24 persons, of whom 17 were released. According to press reports, during February and March, the government released 118 separatist detainees in conjunction with its dialogue with the moderate faction of the All-Parties Hurriyat Conference (APHC), an alliance of political, social, and religious organizations created to further the cause of Kashmiri separatism.

Many detainees were released under the state's 1978 Public Safety Act, including 24 in January, 34 in February, 12 in March, 2 in April, and 92 in June.

On February 27, the Government released 86 Muslims in Kashmir who had been detained under the Prevention of Terrorism Act (POTA).

In Punjab, the pattern of disappearances prevalent in the early 1990s ended; however, during the year, the Government failed to hold accountable hundreds of police and security officials for serious human rights abuses committed during the counterinsurgency of 1984–94, despite the presence of a special investigatory commission. No action was taken and no new information was available on the 634-page report filed in June 2003 by the Punjab-based human rights organization, Committee for Coordination of Disappearances in Punjab (CCDP), which documented 672 cases of disappearance stemming mostly from the period of the counterinsurgency. The Government took no action in any of these cases, and none was expected

During the year, no action was taken by the Central Bureau of Investigation (CBI), which claimed to be actively pursuing charges against dozens of police officials implicated in the 1980s, for mass cremations in which it is alleged that police in Amritsar, Majitha, and Tarn Taran district secretly disposed of approximately 2,000 bodies of suspected militants. The militants were allegedly abducted, extrajudicially executed, and cremated without the knowledge or consent of their families during the height of Sikh militancy in Punjab.

During the year, the NHRC continued to investigate the 2,097 cases of illegal cremation that occurred between 1984 and the early 1990s. The NHRC has asked families whose members have disappeared to come forward and provide evidence. It has not yet released its findings, and no significant progress was made in identifying the cremated bodies or bringing to justice those responsible for the killings. During the year, families of victims in other cities in Punjab petitioned the NHRC for redress, and a small percentage received a response in July. The NHRC announced an award of approximately $5,500 (Rs. 240,000) to 109 families who had relatives cremated, without admitting liability. The police admitted that the victims had been in custody, but maintained that a number of the detainees were killed in crossfire after militants attacked a police convoy searching for hidden weapons.

There were credible reports that police throughout the country often did not file legally required arrest reports, resulting in hundreds of unsolved disappearances in which relatives claimed that an individual was taken into police custody and never heard from again. Police usually denied these claims, countering that there were no records of arrest.

Militants in Jammu and Kashmir and the northeastern states continued to use kidnappings to terrorize the population, seek the release of detained comrades, and extort funds. During the year, numerous railroad and construction company contractors were kidnapped for ransom in Jammu and Kashmir. The employers of the kidnapped accused police of turning a blind eye to the problem. Some kidnapped persons in Jammu and Kashmir and the Northeast were murdered (*see* Sections 1.a. and 1.g.).

On September 30, in Srinagar, unidentified gunmen abducted and killed Mohammad Rafiq Shah, President of the Jammu and Kashmir Peoples Liberation League, and a leader of a moderate faction of the APHC.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture, and states that confessions extracted by force generally are inadmissible in court; however, authorities often used torture during interrogations and extorted money as summary punishment.

Because many alleged torture victims died in custody, and others were afraid to speak out, there were few firsthand accounts, although marks of torture often were found on the bodies of deceased detainees. The prevalence of torture by police in detention facilities throughout the country was reflected in the number of cases of deaths in police custody (*see* Section 1.a.). Police and jailers typically assaulted new prisoners for money and personal articles. In addition, police commonly tortured detainees during custodial interrogation. Although police officers were subject to prosecution for such offenses under the Penal Code, the Government often failed to hold them accountable. According to AI, torture usually took place during criminal investigations and following unlawful and arbitrary arrests.

In May, in Ambedkarnagar, Uttar Pradesh, police arrested a day laborer and tortured him when he failed to pay a $1000 (Rs. 50,000) bribe. According to media reports, police admitted the victim to the hospital under a false name after injecting him in the rectum with petrol. Police also threatened to harm his family if he reported the incident. The Delhi High Court filed a case against police when it learned of the matter and called the Deputy Chief of Police to testify. The case was ongoing at year's end.

In July, the NHRC requested a report from Punjab's Inspector General of Prisons (IGP) after a man incarcerated in Amritsar's Central Jail claimed he was branded on his back by the Deputy Superintendent and other prison officials when he demanded water and better treatment. Doctors found fresh scars on his back that had been inflicted with hot iron rods. No action was taken at year's end.

In July, the Punjab State Human Rights Commission (PSHRC) required police officials to submit a report concerning the case of a prisoner in police custody who was allegedly made to sign four blank confession forms after repeated torture by electric shock.

Also in July, the state unit of the People's Union for Civil Liberties claimed that Bihar police tortured two Nepalese insurgents, one of whom was female, by forcing them to stand naked before a mirror for two days and threatening to inject them

with the HIV/AIDs virus. Authorities claimed that the accusations made against police were false and no further action was taken.

There also were incidents in which police beat journalists (*see* Section 2.a.), demonstrators (*see* Section 2.b.), and Muslim students (*see* Section 2.c.). Police also committed abuses against indigenous people (*see* Section 5).

In Jammu and Kashmir, torture victims or their relatives reportedly had difficulty filing complaints, as local police allegedly were instructed not to open a case without permission from higher authorities. In addition, under the Armed Forces (Jammu and Kashmir) Special Powers Act of 1990, no "prosecution, suit, or other legal proceeding shall be instituted against any person in respect of anything done or purported to be done in exercise of the powers of the act," without the approval of the central Government. The Act gives security force personnel the authority to shoot suspected lawbreakers and those disturbing the peace, and to destroy structures suspected of harboring militants or containing weapons. Human Rights organizations alleged that this provision allowed the security forces to act with virtual impunity (*see* Section 1.d.).

The rape of persons in custody was part of the broader pattern of custodial abuse. NGOs asserted that rape by police, including custodial rape, was more common than NHRC figures indicated. A higher incidence of abuse appeared credible, given other evidence of abusive behavior by police, and the likelihood that many rapes went unreported due to the victims' shame and fear of retribution. However, legal limits placed on the arrest, search, and police custody of women appeared to effectively reduce the frequency of rape in custody. There were no recent NHRC data on the extent of this problem.

In August, two soldiers accused of rape in Kokrajhar, Assam, in June 2003 were dismissed from service and sentenced to 10 years rigorous imprisonment.

There was a pattern of rape by paramilitary personnel in Jammu and Kashmir and the Northeast as a means of instilling fear among non-combatants in insurgency-affected areas (*see* Section 1.g.). However, these incidents were not included in NHRC statistics, as the NHRC does not have direct investigative authority over the military.

In October, the Army reported that it would conduct an inquiry into the case of an alleged gang rape of a girl in Srinagar, Jammu and Kashmir, for which six persons, including two security personnel, were arrested. At year's end, no action was taken. In November police registered cases for another two rapes, one against seven Army personnel who allegedly gang-raped a woman in Anantnag in South Kashmir, and the second against a Major Rehman who allegedly raped a mother and a daughter during a search operation near Handwara in Kashmir. In December, court martial proceedings were initiated against Major Rehman. By year's end, the case had not been decided.

In July, the NCW directed all asylums to check the legitimacy of insanity certificates after reports of husbands using these certificates as grounds for divorce against their wives. The move was directed after a resident psychiatrist at the Agra Mental Asylum was accused of issuing false insanity certificates for this purpose, and the failure of the Agra police to file a First Information Report (FIR) within the required time period.

During the year, the Government gave the NHRC the authority to recommend interim compensation in cases relating to human rights abuses by the armed forces. Officers of the rank of colonel were designated at the command, corps, division and counter-insurgency headquarters to monitor human rights issues. According to the NHRC, there were 1,039 cases of human rights violations by the security forces from 1990–1999, an average of 109 per year. The NHRC reported a marked decline since that period, with 16 cases reported in 2003, and 4 in the current year. The NHRC reported that it registered 756 cases against the military, 172 against paramilitary forces and 109,902 against the police since 2001.

Prison conditions were harsh and life-threatening. Prisons were severely overcrowded, and food and medical care inadequate. For example, the Mumbai-based Criminal Justice Initiative reports that there were 3,000 inmates in Bombay Central Jail, which has an actual capacity of 800. Sources claimed that between 60 and 75 percent of all inmates were awaiting trial, contributing to overcrowding, and that as many as 65 percent of all arrests were false, indicating that a large percentage of those imprisoned could be innocent (*see* Section 1.d.).

In May, the Jammu and Kashmir Bar Association released a report accusing state jail authorities of providing inadequate food to inmates and torturing them. The report alleged that this contributed to malnutrition, organ failure, and insanity among prison inmates. The report also claimed that juvenile detainees were imprisoned with adult detainees, and kept under detention after being acquitted by trial courts.

According to press reports, prison officials used prisoners as domestic servants and sold female prisoners to brothels (*see* Sections 5, Trafficking, and 6.c.).

At the end of September, New Delhi's Tihar jail housed over 10,000 inmates, three times its sanctioned capacity of 3,637. In 2002, the Government announced plans to address overcrowding by building four additional prisons. In December, the Rohini District Jail, the first of the new prisons opened in Delhi, had a capacity of 1,050 prisoners. The Government reported it has acquired land for a second new jail in the capital.

According to one NHRC report, a large proportion of the deaths in judicial custody were from natural causes, in some cases aggravated by poor prison conditions (*see* Section 1.a.). Tuberculosis caused many deaths, and HIV/AIDS remained a serious health threat in the prison system. The NHRC's Special Rapporteur and Chief Coordinator of Custodial Justice was charged to help implement a directive to state prison authorities to perform medical check-ups on all inmates. At year's end, medical checks were only available to a few inmates.

NGO sources alleged that deaths in police custody, which occurred within hours or days of initial detention, often implied violent abuse and torture (*see* Section 1.a.).

Women were housed separately from men. By law, juveniles must be detained in rehabilitative facilities; however, at times they were detained in prison, especially in rural areas. Pretrial detainees were not separated from convicted prisoners.

During the year, custodial deaths at the hands of the police continued. The Assam Human Rights Commission awarded interim compensation of $1,000 (Rs. 50,000) to the next of kin of ULFA cadre Ananta Roy, after confirming that he died in custody of Kokrajhar police in 1999. The Commission recommended that the state government prosecute the guilty police personnel. No official action was taken by year's end.

In June, the Delhi High Court found several police officers guilty in the custodial death of an auto-rickshaw driver, and fined them each approximately $11,000 (Rs. 500,000). Criminal charges were pending.

In April, the Home Ministry reported that there were 28,765 complaints lodged against police for April 2003 and the 12-month period following, compared with 29,964 during the same period in 2001–2002. The NHRC reported there were 42 deaths in police custody during the year.

Local authorities often attempted to hide custodial killings. Despite this, the NHRC and the courts investigated those cases brought to their attention and prosecuted the perpetrators. In some cases, the courts awarded monetary compensation of between $400 (Rs. 17,500) and $2,200 (Rs. 96,000) to the next of kin. In some cases, NGO sources stated that relatives did not receive the compensation that was awarded.

Some NGOs were allowed to work in prisons, within specific governmental guidelines, but their findings remained largely confidential, as a result of agreements they concluded with the Government. Although custodial abuse was deeply rooted in police practices, increased press reporting and parliamentary questioning provided evidence of growing public awareness of the problem. The NHRC identified torture and deaths in detention as one of its priority concerns.

According to the Home Ministry's annual report, the International Committee of the Red Cross (ICRC) visited 55 detention centers and over 7,000 detainees during the year, including all acknowledged detention centers in Jammu and Kashmir, and all facilities where Kashmiris were held elsewhere in the country. However, the ICRC was not authorized to visit interrogation or transit centers, nor did it have access to regular detention centers in the northeastern states (*see* Sections 1.c. and 4). During the year, the ICRC stated that it continued to encounter difficulties in maintaining regular access to persons detained in Jammu and Kashmir. The NHRC received authorization from 15 states and union territories to conduct surprise visits to jails.

In a report issued in January, the U.N. Special Rapporteur on Torture commented that torture and detentions continued in the country, especially in Jammu and Kashmir, and noted the Government's continued refusal to extend him an invitation to conduct investigations.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, arbitrary arrest and detention occurred during the year.

On September 21, President Kalam signed a bill repealing the POTA, and in December, Parliament passed legislation for its repeal. With its repeal, numerous features of POTA, including the legal definition of terrorism and specific ordinances dealing with the financing of terrorism, were folded into an existing law, the Unlawful Activities (Prevention) Act (UAPA).

POTA contains a sunset feature, which gives the Central POTA Review Committee 1 year to review all existing POTA cases. This clause allows the Government to make new arrests if they are tied to an existing POTA case. The Government can issue a new indictment on a case opened 5 years ago under POTA, against a person never previously associated with the case. It can also extend the 1-year limit for reviews. POTA was used to hold people in jail for extended periods prior to the filing of formal charges. Formal charges were necessary, but persons could be held without pretrial proceedings for up to 3 months without a formal charge, and an additional 3 months when approved by a judge. Approvals were regularly given in POTA cases. The law also provided that persons who did not disclose information to the authorities about terrorist activities as defined by POTA could be arrested and charged with an offense, and provided the Government extensive powers to ban terrorist organizations and seize their assets. POTA provided for special courts to try offenses, placed the burden of proof at the bail stage on the accused, allowed confessions made to a police officer to be admissible as evidence, extended the period of remand from 15 to 60 days, and set mandatory sentences for terrorism-related offenses. Human rights groups said POTA gave the Government boundless authority, without holding it accountable for its actions. Human rights activists reported that the revised UAPA contains important improvements over the POTA. For example, it does not allow coerced confessions to be admitted as evidence in court.

NGOs and human rights activists alleged that police often committed human rights violations with impunity, and that police corruption was pervasive. Many government officials acknowledged this as well. The NHRC reported that the majority of complaints it received were against police. Although the Malimath Committee on Judicial Reform issued a report in 2003 that proposed some police-recommended reform, measures had not been implemented at year's end. Some human rights activists maintained that the Committee's main goal was to increase arrests and prosecutions instead of protecting the rights of the accused. Punjab Director General of the Police A.A. Siddiqui reported that police had received 17,000 complaints during the year, including 6,261 from the Punjab State Human Rights Commission, 376 from the NHRC, and 46 from the NHRC for Scheduled Castes and Scheduled Tribes. The media reported that 59 police officers were found guilty of violating human rights in Punjab during the year.

The Constitution provides detainees the right to be informed of the grounds for their arrest, representation by legal counsel, and, unless held under a preventive detention law, to be arraigned within 24 hours of arrest, at which time the accused must either be remanded for further investigation or released. However, thousands of criminal suspects remained in detention without charge, adding to already overcrowded prisons.

The Constitution provides arrested persons the right to be released on bail and the law provides for prompt access to a lawyer; however, in cases of arrest under special security legislation, neither bail nor prompt access to a lawyer were always granted in practice. Court approval of a bail application is mandatory if police do not file charges within 60 to 90 days of arrest. In most cases, bail was set between $11 (Rs. 500) and $4,500 (Rs. 200,000).

Although the Government allowed the Terrorism and Disruptive Activities Act (TADA) to lapse in 1995, the South Asia Human Rights Documentation Center reported that more than 1,000 persons remained in detention awaiting prosecution under the law, and that cases opened under TADA continued through the judicial system. This remained a problem in Jammu and Kashmir.

TADA courts curtailed many legal protections provided by other courts. For example, defense counsel was not permitted to see prosecution witnesses, who were kept behind screens while testifying in court, and confessions extracted under duress were admissible as evidence (*see* Section 1.c.).

In February, Government agents detained former MP Simranjit Singh Mann under TADA for making "an inflammatory speech" in 1991 appealing for a separate state of Khalistan. Mann was released but re-arrested on March 23 after a rally in which he voiced opposition to the then-Deputy Prime Minister L.K. Advani. Mann was released 2 days later.

In September, human rights activists demanded that the Bihar Government withdraw all cases filed against landless laborers and workers under TADA. The activists also asked for the release of 14 people sentenced to life imprisonment and 14 others sentenced to death under TADA. The Bihar Government had not responded to the allegations by year's end.

Police routinely resorted to arbitrary and incommunicado detention, denied detainees access to lawyers and medical attention, and used torture or ill treatment to extract confessions (*see* Section 5).

In March 2003, NGOs charged that scores of Muslims were illegally detained in Gayakwad Haveli Police Station in Ahmedabad by Crime Branch police, reinforcing concerns about discrimination against Muslims in the state of Gujarat. Many of those arrested were charged under the POTA, although the specific infractions were not released. Most of those arrested remained in jail at year's end.

Throughout the year, authorities in Jammu and Kashmir repeatedly detained Kashmiri separatist leaders such as Shabir Shah, Chairman of the Jammu and Kashmir Democratic Freedom Party, Yasin Malik, Chairman of the Jammu and Kashmir Liberation Front (JKLF), and Syed Ali Shah Geelani, Chairman of the hardline faction of the APHC, for short periods of time, ranging from several hours to 1 day, usually to prevent their participation in demonstrations, funerals, or other public events. Police released them soon thereafter.

On August 8, the Supreme Court rejected a plea by Maulvi Hussein Umarji to be released from custody. Umarji, accused of participating in the February 2002 attack on a passenger train in Godhra, argued that under POTA he could only be held for 30 days, but the Court ruled that he could be held for up to 180 days without formal charges.

Although there were many instances of arbitrary arrest and detention, there were cases during the year in which a higher court freed people who had been arrested arbitrarily. For example, on May 8, a POTA court freed Ghulam Moinuddin Bhat, a Kashmiri separatist associated with the Jamaat-I-Islami, who had been arrested in 2003 in New Delhi for allegedly promoting militant activities. On August 10, the Government of Tamil Nadu withdrew an allegedly politically motivated POTA case against Marumalarchi Dravida Munnetra Kazhagam (MDMK) General Secretary Vaiko and eight other related cases. Vaiko and the others had been arrested by Tamil Nadu authorities for making positive statements about the Sri Lankan Tamil terrorist group, Liberation Tigers of Tamil Eelam (LTTE), at a public rally in 2002. However, the POTA court refused to accept the Government's withdrawal of charges, and those arrested remained in detention at year's end.

In July 2003, the Home Ministry disclosed that of 702 persons arrested under POTA since its enactment, 217 were arrested in the last 2 years and 116 had gone to trial. Human rights groups alleged that the state governments invoked POTA selectively and on dubious grounds against political opponents and persons belonging to the minority communities.

On August 18, the Home Minister informed Parliament that the POTA Review Committee had received 262 complaints regarding the Act during the year. Of these, the Committee ruled in favor of the accused in 18 cases, rejected 33 complaints, and disposed of 10 for unspecified reasons. The remaining 201 were still pending at year's end.

The National Security Act (NSA) permits police to detain persons considered security risks anywhere in the country (except for Jammu and Kashmir), without charge or trial for as long as 1 year on loosely defined security reasons. NSA does not define "security risk." State governments must confirm the detention order, which is reviewed by an advisory board of three High Court judges within 7 weeks of the arrest. NSA detainees are permitted visits by family members and lawyers, and detainees must be informed of the grounds for their detention within 5 days (10 to 15 days in exceptional circumstances). According to press accounts, 32 persons had been detained under the NSA during the year.

Human rights groups alleged that the NSA allowed authorities to order preventive detention at their own behest after only a cursory review by an advisory board, and that no court could overturn such a decision.

The Public Safety Act (PSA), which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge and judicial review for up to 2 years. In addition, detainees do not have access to family members or legal counsel. The Government estimated that approximately 514 persons remained in custody under PSA or related charges at year's end. In June, 92 PSA prisoners were released.

The Armed Forces Special Powers Act (AFSPA) of 1958 remained in effect in Nagaland, Manipur, Assam, and parts of Tripura, and a version of this law was in effect in Jammu and Kashmir. Under AFSPA, the Government can declare any State or Union Territory a "disturbed area." This allows the security forces to fire on any person for the "maintenance of law and order" and to arrest any person "against whom reasonable suspicion exists" without informing the detainee of the grounds for arrest. Security forces are also granted immunity from prosecution for acts committed under AFSPA.

In Manipur, human rights activists alleged that Manorama Devi, a suspected member of the PLA who had been detained under the AFSPA, had been raped, tortured and murdered while in custody (*see* Section 1.a. and 1.c.). Devi's death touched

off a series of protests by an umbrella organization of 32 groups calling for the AFSPA's repeal and the arrest and prosecution of Manorama's killers. A number of domestic and international human rights groups supported these demands. The Government withdrew the Act from the Imphal municipal area, but not from the rest of Manipur and Nagaland.

The law provides a person in detention the right to a prompt trial; however, due to a severe backlog, this was not the case in practice (*see* Section 1.e.).

There were no reports of political detainees during the year.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, serious problems remained. The judiciary was backlogged and understaffed in most parts of the country, and in Jammu and Kashmir members of the judiciary have long been subject to threats and intimidation by guerillas and security forces. The judicial system is headed by a Supreme Court, which has jurisdiction over constitutional issues, and includes the Court of Appeals and lower courts. Lower courts hear criminal and civil cases and send appeals to the Court of Appeals. The President appoints judges, who may serve until the age of 62 on state high courts and 65 on the Supreme Court.

The court system remained severely overloaded, resulting in the detention of thousands of persons awaiting trial for periods longer than they would receive if they had been convicted. Prisoners were held for months or even years before obtaining a trial date. In July, the Ministry of Law and Justice reported that there were 29,622 cases pending before the Supreme Court, and 3,269,224 before the state High Courts. The NHRC reported that 75 percent of the country's total inmates were prisoners waiting for trial.

The Criminal Procedure Code provides that trials be conducted publicly, except in proceedings involving official secrets, trials in which statements prejudicial to the safety of the State might be made, or under provisions of special security legislation. Sentences must be announced publicly. Defendants have the right to choose counsel independent of the Government. There are effective channels for appeal at most levels of the judicial system, and the State provides free legal counsel to indigent defendants. Defendants were allowed access to relevant government-held evidence in most civil and criminal cases; however, the Government had the right to withhold information and did so in cases it considered sensitive. In October 2003, the Delhi High Court issued new witness protection guidelines to reduce the number of witnesses who recanted their testimony under threat from defendants.

The Government does not interfere in the personal status laws of minority communities, including those laws that discriminate against women. There are separate laws for Muslims and Hindus on a number of issues. Muslim personal status law governs family law, inheritance, and divorce (*see* Section 5.a.).

In Jammu and Kashmir, the judicial system barely functioned due to threats by militants against judges, witnesses, and their family members; because of judicial tolerance of the Government's often heavy-handed anti-militant actions; and because of the frequent refusal by security forces to obey court orders.

On May 2, retired Supreme Court Justice R.P. Sethi said that there was a backlog of 75,000 criminal cases in Jammu and Kashmir. He also estimated that 45 percent of criminal cases were never reported.

Courts in Jammu and Kashmir often were reluctant to hear cases involving militant crimes and failed to act expeditiously on habeas corpus cases, if they acted at all. There were a few convictions of alleged militants in the Jammu High Court during the year. In March, Jammu and Kashmir Chief Minister Mufti Mohammad Sayeed announced there were 533 persons of unidentified ethnicity, 361 Kashmiris and 172 foreigners, behind bars. During the year, the Government released 85 detainees.

There was increasing concern about the failure of the Gujarat government to arrest and convict those responsible for the widespread communal violence in 2002 following the burning in Godhra of the S-6 coach of the Sabarmati Express train, when 59 men, women and children died. In the days following the train burning, Hindu mobs killed hundreds of Muslims, displaced tens of thousands, and destroyed property.

In many cases, attempts to hold perpetrators of the Gujarat violence accountable were hampered by the allegedly defective manner in which police recorded complaints. Victims complained that police failed to register their complaints, or recorded the details in such a way as to lead to lesser charges, omitted the names of prominent people involved in attacks, and did not arrest suspects, particularly if they were supporters of the BJP. According to an affidavit submitted in January by the Government of Gujarat to the Supreme Court, out of 4,252 complaints filed,

2,032 were closed even though the abuses were substantiated. On August 17, the Supreme Court instructed the Gujarat High Court to appoint a committee of high-level police officials to re-examine the 2,032 closed cases to see whether they could be reopened. The media reported that officials who attempted to conduct a serious investigation into the incidents were promptly removed from the case. At year's end, the report on the number of cases that should be re-opened had not been submitted to the Supreme Court. The Government of Gujarat claimed that police had re-opened investigations against 5,384 people in the city of Ahmedabad and 24,683 people in the state as a whole. Only 3 cases related to the Gujarat rioting completed trial in the lower level courts by the end of the year.

In April, the Supreme Court ordered that one of the most notorious of the cases connected with the rioting following the Godhra incident, the Best Bakery Case, should be retried in a special court in Mumbai, Maharashtra. The court issued arrest warrants for 10 of the 21 accused. On November 4, the star prosecution witness refused to testify in the Mumbai court in one of a series of recantations.

At year's end, a Committee chaired by former High Court Justice U.C. Bannerjee and established by the Congress Government, was investigating the cause of the train fire at Godhra, which triggered the deadly riots.

During the year, Human Rights Watch (HRW) documented how Hindu extremists threatened and intimidated victims, witnesses, and human rights activists attempting to prosecute those who committed crimes during the 2002 Gujarat riots. It reported that instead of pursuing the perpetrators of violence, the Gujarat government nurtured a climate of fear. The report alleged that the Gujarat government launched selective tax probes against some Islamic organizations to pressure Muslim witnesses to withdraw murder and arson charges against Hindu nationalists. The Gujarat government denied the charge.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, at times the authorities infringed upon them. Police must obtain warrants to conduct searches and seizures, except in cases where such actions would cause undue delay. Police must justify such warrantless searches in writing to the nearest magistrate with jurisdiction over the offense. The authorities in Jammu and Kashmir, Punjab, and Assam have special powers to search and arrest without a warrant.

In recent years, the Government Enforcement Directorate (ED), which is mandated to investigate foreign exchange and currency violations, searched, interrogated, and arrested thousands of business and management professionals, often without search warrants.

The Information Technology Act grants the police powers under certain circumstances to search premises and arrest individuals without a warrant. The Act specifies a 1-year sentence for persons who fail to provide information to the Government on request, and a 5-year sentence for transmitting "lascivious" material (*see* Section 2.a.). The Act also requires Internet cafes to monitor Internet use and inform the authorities of offenses (*see* Section 2.a.). At year's end, the Government had not circulated rules for implementation of this law.

The Indian Telegraph Act of 1885 authorizes the surveillance of communications, including monitoring telephone conversations and intercepting personal mail, in cases of public emergency, or "in the interest of the public safety or tranquility." The central Government and every state government used these powers during the year.

Although the Telegraph Act gives police the power to tap phones to aid an investigation, they were not allowed to use such evidence in court; however, under POTA and the UAPA, such evidence was admissible in terrorist cases, and some human rights activists noted that the new UAPA Ordinance confers additional powers on police to use intercepted communications as evidence in terrorism cases. While there were elaborate legal safeguards to prevent police from encroaching on personal privacy, there were no such protections in terrorist cases.

In January, in the Netarhat region of Jharkhand, local tribal organizations protested what they described as illegal activities by the Army.

Tribal groups claimed that the army did not provide prior notification that all villagers should vacate their homes in advance of artillery practice as required under the Maneuvers Field Firing and Artillery Practices Act. The Defense Ministry ordered the army to cease its activities only after the local inhabitants involved the governor (*see* Section 5).

In October, the press reported that eight states (Andhra Pradesh, Rajasthan, Orissa, Haryana, Chhattisgarh, Madya Pradesh, Himachal Pradesh, and Maharashtra) have enacted two-child laws, which provide incentives in government

jobs and subsidies to those who have no more than two children. For example, during the year, village council members in Chhattisgarh who violated this prohibition were reportedly dismissed from their positions. National health officials in New Delhi noted that the Government was unable to regulate state decisions on population issues.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—Security force personnel enjoyed extraordinary powers under the Jammu and Kashmir Disturbed Areas Act and the Armed Forces (Jammu and Kashmir) Special Powers Act, which includes the authority to shoot suspected lawbreakers on sight and destroy structures suspected of harboring militants or arms.

There were continuing reports of civilians killed in crossfire in Jammu and Kashmir during the year. In May, according to press reports, a man was killed in crossfire between militants and security forces in the Pulwama district of south Kashmir. Troops withdrew from the area immediately following the incident, after local villagers began protesting the killing.

Members of the security forces continued to abduct and kill suspected militants, and security forces were not adequately held accountable for their actions. Reliable data on such cases were difficult to obtain.

According to credible reports, in addition to harassment during searches and arbitrary arrests (*see* Section 1.d.), security forces abducted and sometimes used civilians as human shields while searching for landmines. Such abuses occurred mostly in the Kupwara and Doda districts.

During the year, tension along the Line of Control (LOC) was much lower following the November 2003 ceasefire agreement. The Home Ministry reported no cases of artillery shelling or mortar and small arms fire across the LOC or on the Siachen Glacier during the year.

Insurgents committed political killings, kidnappings, and rapes of politicians and civilians (*see* Sections 1.a., 1.b., and 1.c.), engaged in extortion, and carried out acts of random terror that killed hundreds of Kashmiris.

In Manipur, an active insurgency involving up to 19 militant groups resulted in the deaths of 23 civilians, 26 security forces, and 93 militants, according to the South Asia Terrorism Portal (SATP.org). For example, in April, militants from the outlawed Kanglei Yawol Kanna Lup (KYKL) in Imphal killed two persons, including former state police chief L. Jogeshwar, triggering local panic ahead of the national parliamentary elections.

According to SATP.org, separatists in Nagaland killed 35 civilians during the year. Human rights groups observed that despite the ongoing talks between separatist groups and state government officials, and an April 28 government ceasefire, violence continued, including numerous clashes between rival Naga separatist groups. For example, on March 18, men from Nationalist Socialist Council of Nagalaland-Isak-Muivah (NSCN-IM) abducted two Nationalist Socialist Council of Nagaland-Khaplang group (NSCN-K) guerrillas allegedly to extort money, and on June 30 a suspected NSCN-K member killed a member of the rival NSCN-IM faction.

Killings of security force members by militants in Jammu and Kashmir declined to 330 for the year, according to the Home Ministry.

Militants also targeted government officials. In January, unidentified persons threw 2 grenades at a mosque in the Pir Mitha area of Jammu, killing 2 government officials and injuring 19. In February, an unidentified militant killed Deputy Inspector General of Police Mohammed Amin Bhat at a mosque in Srinagar. On February 27, one person was killed and eight others were injured in a failed attempt on the life of Jammu and Kashmir Chief Minister Mufti Mohammad Sayeed at a public meeting in Beerwah in South Kashmir. On March 30, governing People's Democratic Party (PDP) President Mehbooba Sayeed escaped after militants opened fire on her motorcade on the Pahalgam-Anantnag road.

In September, the Army found a woman in Doda district of Jammu and Kashmir who had been raped and tortured by militants for 25 days. The militants reportedly targeted her because her brother, a former militant, had surrendered to authorities. The militants cut off her ears and nose and left her for dead in a forest. The army adopted the woman as a humanitarian case and paid for reconstructive surgery (*see* Section 1.c.).

During the year, militant activities in the East and Northeast also claimed many lives through the use of ambushes and time bombs on roads, on railway tracks, and in trains. For example, on April 8, a landmine set by Naxalites in Jharkhand killed 5 policemen and seriously injured over 10 other persons. In Tripura in August, the

National Liberation Front of Tripura killed six shopkeepers abducted for ransom on June 14. Another 18 reportedly were released after their families paid the ransom.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some limitations. Under the Official Secrets Act, the Government may restrict publication of sensitive stories or suppress criticism of its policies, but no cases were reported during the year.

The Press Council is a statutory body of journalists, publishers, academics, and politicians, whose chairman is appointed by the Government. Designed to be a self-regulating mechanism for the press, it investigates complaints of irresponsible journalism and sets a code of conduct for publishers. This code includes a commitment not to publish articles or details that might incite caste or communal violence. The Council publicly criticized newspapers or journalists it believed had broken the code of conduct, but its findings carried no legal weight.

A vigorous press reflected a wide variety of political, social, and economic beliefs. Independent newspapers and magazines regularly published and television channels broadcast investigative reports and allegations of government wrongdoing, and the press generally promoted human rights and criticized perceived government lapses. Most print media were privately owned. In the electronic media, 80 percent of the television channels were privately owned. Government-controlled radio remained the main source of news for much of the population.

Foreign media was, for the most part, allowed to operate freely, and private satellite television was distributed widely by cable or satellite dish, providing serious competition for Doordarshan, the government-owned television network. Doordarshan frequently was accused of manipulating the news in the Government's favor; however, some privately-owned satellite channels also promoted the platforms of political parties their owners supported.

The Government often held foreign satellite broadcasters, rather than domestic cable operators, liable under civil law for what it deemed was objectionable content on satellite channels—notably, tobacco and alcohol advertisements.

AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legalized in 2000, but licenses only authorized entertainment and educational content. Authorities did not permit privately owned radio stations to broadcast news.

In June, the Government claimed that the publication of a domestic edition of the International Herald Tribune (IHT) by the Deccan Chronicle Press violated a 1955 Cabinet Resolution that disallowed a local edition of any foreign newspaper and banned the registration of foreign newspaper titles. The IHT, however, continued to be published daily in Hyderabad, Andhra Pradesh.

The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with separatist leaders and filed reports on a range of issues, including government abuses. In October, the Government permitted the first delegation of Pakistani journalists to visit Jammu and Kashmir in more than 50 years. The correspondents, on a trip sponsored by the South Asia Free Media Association, had access to the entire spectrum of government and separatist opinion.

The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir. Under the Act, a district magistrate may prohibit the publication of material likely to incite murder or any act of violence; however, newspapers in Srinagar reported in detail on alleged human rights abuses by the Government and regularly published press releases of separatist Kashmiri groups.

In September, the Government renewed its permission for the Arabic-language satellite news channel, Al Jazeera, to transmit. The Government had halted Al Jazeera broadcasts in 2002 to express displeasure with its reporting on the February-March 2002 riots in Gujarat and the insurgency in Jammu and Kashmir.

Also in September, authorities arrested a photojournalist with an Urdu newspaper in Srinagar for allegedly passing sensitive defense-related material to Pakistan. There was no action in this case at year's end.

Ethnic or religious groups carried out most attacks on members of the media. In June, radical elements of the BJP attacked the Mumbai office of the newspaper Aapla Mahanagar, assaulted the editorial staff and damaged office equipment in response to an article written against a Hindu religious sect. In August, in Mumbai, alleged Muslim fundamentalist activists attacked the editor of a Hindi language newspaper, Sajid Rashid, with knives and seriously injured him. They charged that he had insulted Islam by criticizing the custom of Triple Talaq, which allows a man to divorce his wife by stating, "I divorce you" three times. Mumbai police filed

charges in the case, but the assailants were at large, and the investigation remained open at year's end.

In August, Hindu nationalist activists from the Shiv Sena injured the editor of the Mumbai-based Marathi daily Mahanagar in retaliation for remarks allegedly made against Shiv Sena leader Narayan Rane in a private conversation.

Political tensions were also a cause of attacks on media outlets. For example, in August, party activists from the Pattali Makkal Katchi (PMK), a South Indian regional party, attacked and damaged the offices of Dinamalar, a Tamil language daily.

Violence against the press and intimidation by militant groups in Jammu and Kashmir caused significant self-censorship there by journalists, who were reluctant to report on events, according to journalists based in the state. In March, security forces killed two militants who attacked a building housing the Press Information Bureau and the State Information Department in Srinagar who had tried to detonate explosives. In April, a Pakistan-based Islamist militant group, Tehrik-ul-Mujahedeen, threatened journalists who wrote articles criticizing anti-India militants.

During the year, the threat of losing government revenue contributed to self-censorship by smaller media outlets that heavily relied on state government advertising.

Authorities occasionally beat, detained, and harassed journalists. In April, the Journalists Union of Assam and the Journalist Action Committee alleged that police ordered a journalist and several other people to kneel down in the road during a routine traffic stop. No action was taken against police.

In 2003, the State Assembly of Tamil Nadu ordered the arrest of a number of journalists associated with The Hindu, an English language daily, for allegedly engaging in a "breach of privilege" of the House. The journalists contested the arrest, and in July 2003, the courts ordered a stay on their arrest, until a higher court was able to decide the issue. The petition filed by The Hindu in the Supreme Court regarding limits on freedom of expression by the press was pending at year's end; however, the arrest warrants against the journalists were dropped.

The Government maintained a list of banned books that may not be imported or sold in the country. In some cases, such as Salman Rushdie's "Satanic Verses," censors claimed the book aggravated communal tensions. In March, the Maharashtra state government filed criminal charges against a foreign professor for making slanderous remarks against the 17th century Indian warrior Shivaji and his mother in a book. The Maharashtra state government banned the professor's book in 2003.

A government censorship board reviewed films before licensing them for distribution. The board censored material it deemed offensive to public morals or communal sentiment.

In June, the country's Censor Board granted a censor certificate, allowing public viewing to the film "Aakrosh" (Lament) after the Mumbai High Court ruled in favor of the film's producer. In 2003, the Board had denied a certificate to the film, which covered the 2002 Gujarat riots, effectively preventing public showings.

The Informational Technology Act provides for censoring information on the Internet on public morality grounds, and it considers "unauthorized access to certain types of electronic information" a crime. According to Reporters Without Borders, this law theoretically allowed police officers to search the homes or offices of Internet users at any time without a warrant, but that claim has not been tested in court. The Government retained the right to limit access to the Internet, specifically information deemed detrimental to national security.

In January 2003, the Ministry of Human Resources Development (HRD) passed strict academic guidelines to regulate academic partnerships between local and western universities and academics, in line with Hindutva philosophy. The guidelines, issued to all central universities, required HRD permission to organize "all forms of foreign collaborations and other international academic exchange activities," including seminars, conferences, workshops, guest lectures, and research. These guidelines remained in force during the year.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association, and the Government generally respected this right in practice. The authorities sometimes required permits and notification prior to holding parades or demonstrations, but local governments ordinarily respected the right to protest peacefully, except in Jammu and Kashmir, where the local government routinely denied permits to separatist parties for public gatherings and detained separatists engaged in peaceful protest. During periods of civil tension, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code.

In February in Baramulla, Jammu and Kashmir, one person was killed and two wounded when police opened fire to disperse demonstrators protesting against human rights abuses allegedly perpetrated by security forces.

On August 1, police fired tear gas at a procession of citizens protesting human rights abuses committed by security forces under the AFSPA in Imphal, Manipur, wounding 15 protestors. The The Manipur government had banned the demonstration.. On August 4, police fired into another procession in Imphal, wounding 18. These protests exacerbated longstanding tensions between the civilian population and the security forces in Manipur.

On August 4, police in Bihar fired into a crowd that had gathered outside a government office expecting flood relief, killing a 14-year-old boy. Police officials claimed that the police fired in self-defense after the mob went on a rampage and began throwing stones. No action was taken against the police.

NGOs must secure approval from the Ministry of Home Affairs before organizing international conferences. Human rights groups contended that this provided the Government with substantial political control over the work of NGOs and their freedom of assembly and association. NGOs alleged that some members were denied visas to enter the country.

c. Freedom of Religion.—The Constitution provides for secular government and the protection of religious freedom, and the central Government generally respected these provisions in practice; however, it sometimes did not act effectively to counter societal attacks against religious minorities and attempts by state and local governments to limit religious freedom. This failure resulted in part from the legal constraints inherent in the country's federal structure, and in part from shortcomings in the law enforcement and justice systems. There is no state religion; however, the majority of citizens are followers of Hinduism, and this at times adversely affected the religious freedom of others. Some extremists interpreted ineffective investigation and prosecution of attacks on religious minorities as evidence that such violence may be committed with impunity.

During the year, the status of religious freedom improved; however, problems remained in some areas. While the Government took some steps to decrease attacks and bring about justice, attacks against religious minorities persisted. However, no new anti-conversion laws were enacted during the year, and Tamil Nadu repealed its anti-conversion law. Hindutva, the politicized inculcation of Hindu religious and cultural norms to the exclusion of others, remained a subject of national debate and influenced some governmental policies and societal attitudes.

The BJP, which led the central Government until May, is a Hindu nationalist party with links to Hindu extremist groups implicated in violent acts against Christians, Muslims, and tribal persons. Human rights groups and others suggested that these links influenced the BJP Government's inadequate response to acts of violence against religious minorities.

Legally mandated benefits were assigned to certain groups, including some groups defined by their religion. For example, minority institutions were able to reserve seats for minorities in educational institutions. Minority run institutions also were entitled to funding, although with restrictions; however, benefits accorded Dalits (formerly known as "untouchables") were revoked if Dalits converted to Christianity, but not to Buddhism.

The Religious Institutions (Prevention of Misuse) Act of 1988 makes it a criminal offense to use any religious site for political purposes or to use temples to harbor persons accused or convicted of crimes. While specifically designed to deal with Sikh places of worship in Punjab, the law applies to all religious sites. The Religious Buildings and Places Act requires a state government-endorsed permit before construction of any religious building may commence. The Act's supporters claimed that its aim was to curb the use of Muslim institutions by Islamic extremist groups, but the measure became a controversial political issue among religious Muslims.

In May, the Government of Tamil Nadu repealed a 2003 Ordinance banning religious conversions carried out by "force, allurement or fraudulent means."

In February 2003, Gujarat passed a "Freedom of Religion" Bill that provides penalties for conversion using allurement or force, including up to 3 years in prison and a fine of $1,000 (Rs 50,000). Under the Act, officials must assess conversions, and the District Magistrate must give prior permission. Human rights advocates believed that the law made it more difficult for poor persons, mistreated minorities, and others ostracized under the caste system to convert from Hinduism to another religion. Anti-conversion laws also have been in effect in Madhya Pradesh and Orissa since the 1960s, and laws against forcible conversions exist in Andhra Pradesh and Arunachal Pradesh.

In July 2003, in the first conviction under the anti-conversion law in Chhattisgarh (which was formerly part of Madhya Pradesh), Sister Brishi Ekka was sentenced to 6 months in jail for not reporting the 1996 conversion of 95 families to Christianity. Sister Ekka appealed the decision in the Chhattisgarh High Court, and later was released on bail. At year's end, the court had not heard the case, and Sister Ekka remained free on bail.

There is no national law barring a citizen or foreigner from professing or propagating his or her religious beliefs; however, India's Foreigners Act of 1946 strictly prohibits visitors in the country on tourist visas from engaging in religious preaching without first obtaining permission from the Ministry of Home Affairs. During the year, state officials continued to refuse permits to foreign Christian missionaries to enter some northeastern states, on the grounds of political instability in the region. Missionaries and religious organizations must comply with the Foreign Contribution (Regulation) Act (FCRA) of 1976, which restricts funding from abroad. The Government can ban a religious organization if it violates the FCRA, has provoked intercommunity friction, or has been involved in terrorism or sedition.

The legal system accommodated minority religions' personal status laws; there were different personal laws for different religious communities. Religion-specific laws pertain in matters of marriage, divorce, adoption, and inheritance. For example, Muslim personal status law governed many non-criminal matters involving Muslims, including family law, inheritance, and divorce. The personal status laws of the religious communities sometimes discriminated against women (*see* Section 5). Some laws, such as the repealed POTA, while not specifically written for a minority group, affected particular ethnic or religious groups. A study carried out by the NGO People's Tribunal in 10 states in July found that 99.9 percent of those arrested under POTA were Muslims.

Tensions between Muslims and Hindus, and between Hindus and Christians, continued during the year. Attacks on religious minorities decreased overall but occurred in several states, which brought into question the Government's ability to prevent sectarian and religious violence or prosecute those responsible for it. For example, in July, in Veravel, Gujarat, an alleged sexual assault of a Hindu schoolgirl by some Muslim youth led to violence between the 2 communities, causing 2 deaths, 20 injuries, and the destruction of 40 houses and 15 shops. In August, a group of 300 alleged members of the Hindu nationalist Vishwa Hindu Parishad (VHP) ransacked a church in Orissa, demolishing statues and burning religious books and furniture. The Government reportedly took no official action against those responsible.

Christian organizations also claimed that BJP officials in some states and localities have not restrained the illegal activities of radical Hindu groups. Although Christian leaders noted a decrease in violent attacks against their community, the incidents have continued. For example, in a September incident in Kerala, Christian groups demanded an investigation, and the Government ordered a probe, after Hindu militants attacked volunteers of the Missionaries of Charity. Also in September, the Global Council of Indian Christians urged the NHRC to take action against groups inciting violence against Christians in Karnataka.

Hindu organizations frequently alleged that Christian missionaries force Hindus, particularly those of lower castes, to convert to Christianity. In Christian majority areas, there were occasional reports that Christians persecuted members of regional minorities. In Tripura, there were several reported cases of harassment of non-Christians by members of the National Liberation Front of Tripura (NLFT), a militant evangelical tribal group.

There was increasing concern about the failure of the Gujarat government to arrest and convict those responsible for the widespread communal violence that occurred in 2002 following the burning of the Sabarmati Express train in Godhra (*see* Section 1.e.).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of movement, and the Government generally respected this in practice; however, in certain border areas special permits were required.

Security forces often searched and questioned occupants at vehicle checkpoints in the Kashmir Valley. Unlike in previous years when mass searches were common, they increasingly took place only in troubled areas or after major terrorist attacks. The Government also expanded construction of a 330-mile long security fence along the LOC in Jammu and Kashmir, causing occasional difficulties for local residents, as the security fence cut through some villages and agricultural lands. By the end of the year, construction of the fence was approaching its final stages. The Govern-

ment's stated purpose for the security fence was to stop arms smuggling and infiltration by Pakistani-based militants. The Government attributed a decline in successful insurgent crossings during the year in part to the fence.

Under the Passports Act of 1967, the Government may deny a passport to any applicant who "may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India." The Government used this provision to prohibit the foreign travel of some government critics, especially those advocating Sikh independence and members of the separatist movement in Jammu and Kashmir. In July, the Government returned the impounded passport of Mirwaiz Umar Farooq, the acting Chairman of the APHC; he traveled abroad in September and October. Only a small number of Kashmiri separatists possessed passports.

There was no law banning forced exile; however, there were no reports of forced exile during the year.

According to the Norwegian Refugee Council, a total of at least 650,000 persons have been displaced due to conflicts in Jammu and Kashmir, Gujarat, and the Northeast (*see* Sections 1.a., 1.c., and 1.g.). For example, there was no progress on the plight of approximately 300,000 Kashmiri Pandits (Hindu Brahmins) who had fled from the Kashmir Valley in the early 1990s after the outbreak of separatist violence and were lodged primarily in refugee camps in Jammu and New Delhi. They were unable to return to their homes in Jammu and Kashmir because of serious concerns about their safety.

During the year, there were reports that Bodo-Santhal ethnic clashes continued in Assam. More than 87,000 persons lived under poor conditions in relief camps in Assam as a result of ongoing violence in the Northeast. During the year, the Government provided assistance to internally displaced persons (IDPs) and allowed them access to NGO and human rights organizations. There were no reports that the Government attacked or forcibly resettled IDPs. There were no reports of government programs specifically designed to facilitate resettlement.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees or asylum seekers. The Government provided temporary protection to certain individuals who may not qualify as refugees, under the 1951 convention and the 1967 Protocol.

In 2003, the Nepal Communist Party leader C.P. Gajurel was arrested after presenting a false passport during transit through the country. In March, through his lawyers, he asked for third country asylum. At the end of the year, he remained in judicial custody in Hyderabad.

The central Government generally denied NGOs and the office of the U.N. High Commissioner for Refugees (UNHCR) direct access to refugee camps, particularly in Mizoram, but in Tamil Nadu UNHCR was given access and maintained a local office. The UNHCR office had no formal status, but the Government permitted its staff access to refugees living in urban centers. The Government does not formally recognize UNHCR grants of refugee status (although it has provided "residential permits" to many Afghans and Burmese). The Government considers Tibetans and Sri Lankans in refugee camps to be refugees, but regards most other groups as economic migrants. However, in recent years, a number of court rulings have advanced the protection of refugees whom the Government had considered to be economic migrants. During the year, the U.N. High Commissioner for Refugees did not visit the country.

The Government provided assistance to refugee camps and resettlement areas, most notably to Tibetan and Sri Lankan Tamil refugees; however, this was applied inconsistently as it was not applied to Bangladeshi refugees because the Government considers them to be economic migrants. Refugees were permitted to work, and the state and central governments paid to educate refugee children and provided limited welfare benefits.

NGOs reported refugee complaints about deteriorated housing, poor sanitation, delayed assistance payments, and inadequate medical care in the Tamil refugee camps. The UNHCR met with Tamil refugees outside their camps in connection with UN voluntary repatriation activities, and the Organization for Eelam Refugees Rehabilitation was allowed access to some of the camps during the year. Human rights groups alleged that the Government used some of these "special camps" to hold suspected members of the LTTE terrorist organization. Human rights groups also alleged that inmates of the special camps sometimes were subjected to physical abuse and that their confinement to the camps amounted to imprisonment without trial. They alleged that several of those acquitted by the Supreme Court in 1999 of involvement in the assassination of former Prime Minister Rajiv Gandhi remained confined in these special camps. During the year, the Tamil Nadu Govern-

ment initiated a review of the inmates of the special camps to determine whether any could be released. By year's end, the Government was still reviewing the situation and 23 persons remained in one camp.

There were also persons living in the country who the Government formally did not recognize as refugees. These included some 80,000 Chakma permanent residents from Bangladesh who remained in Arunachal Pradesh and Mizoram, as well as Afghans, Iraqis, and Iranians who did not possess valid national passports. The Government has chosen not to deport them, but to issue them renewable residence permits, or ignore their status. Due to financial and other reasons, many refugees were unable or unwilling to obtain or renew their national passports and therefore were unable to regularize their status in the country.

In January, the U.N. High Commissioner for Refugee Rehabilitation assisted 155 Sri Lankan refugees staying at the Mandapam refugee camp in Tamil Nadu to fly back to Sri Lanka. The U.N. and Sri Lankan Government also made arrangements for the return of refugees by ship. In close coordination with the Tamil Nadu and Sri Lankan Governments, UNHCR assisted the return of 1,092 Sri Lankan refugees in 2003.

In February, police charged at a group of Tibetan Youth Congress peace marchers, including nuns, monks, and elderly persons with sticks in the town of Dharamsala, to prevent their travel to New Delhi to participate in Tibetan Uprising Day on March 10.

In April, the All-Arunachal Pradesh Students' Union (AAPSU) protested the granting of voting rights to Bangladeshi refugees in parliamentary elections. More than 50,000 tribal Chakma and Hajong refugees had remained in the state since fleeing Bangladesh as stateless citizens beginning in 1964. In May, Chakmas voted for the first time in the Lok Sabha elections.

Members of the Santhal tribal group were non-recognized refugees in Assam, and human rights groups estimated that 200,000 lived in relief camps. The Santhals were sheltered in 100 camps in Assam; conditions in such camps were extremely poor, and the Assam Government claimed it did not have the resources to address refugee needs.

Ethnic Chins were among the non-recognized refugees in the northeastern states, particularly Mizoram. During the year, tensions between security forces and Chin National Force (CNF) insurgents operating in Burma allegedly resulted in the detention, interrogation, and expulsion of some persons associated with the CNF to Burma, where they credibly feared persecution. During the year NGOs estimated that 10,000 persons were expelled to Burma, where the deportees were reportedly jailed pending hearings to be scheduled before military tribunals. An estimated 40,000 to 50,000 Chins lived and worked illegally in Mizoram.

Mizoram human rights groups estimated that some 31,000 Reangs, a tribal group from Mizoram displaced by sectarian conflict, were being sheltered in 6 camps in North Tripura. Conditions in these camps were poor, and the Tripura Government asked the central Government to allot funds for their care. Reang leaders in the camps pressed for reserved jobs, education benefits, and a comprehensive rehabilitation package for refugees in the relief camps. The Mizoram Government rejected these demands and maintained that only 16,000 of the refugees had a valid claim to reside in the state.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Government changed hands following free and fair national parliamentary elections in April and May. The country has a democratic, parliamentary system of government with representatives elected in multiparty elections. A Parliament sits for 5 years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. State governments were elected at regular intervals except in states under President's Rule.

According to the Jammu and Kashmir Chief Secretary, there were 109 incidents of violence in the state during the campaigning and voting for the parliamentary elections in April-May; 31 civilians and 6 members of the security forces were killed, and 261 persons were injured. In April, the terrorist group Jaish-e-Mohammed (JeM) distributed hand-written notes warning residents in parts of the Kashmir Valley not to participate in the elections. JeM also demanded that Kashmiris not work on public works projects and support locally organized strikes. On April 21, militants cut off the ears of a man in Udhampur for voting in the polls. In a similar incident in Pulwama, members of the terrorist group Lashkar-e-Tayyiba cut the fin-

ger off a villager because he had voted (voters' fingers were stained with ink after they cast their ballot).

There were numerous instances of police or security forces interfering with election-related activity. In April in Srinagar, the Chairman of the Jammu and Kashmir Liberation Front (JKLF), Mohammad Yasin Malik, and the president of the Jammu and Kashmir Democratic Freedom Party, Shabir Ahmad Shah, were among six separatist leaders detained by police for campaigning against the parliamentary elections in Baramulla district in northern Kashmir. Police detained these and other activists from other groups on a regular basis prior to the polls and by-elections in October to prevent them from campaigning against the polling on the grounds that their activities would disturb the peace. As a rule, the period of detention was short, and detainees were quickly released.

There was a widespread public perception that corruption was endemic in the executive and legislative branches of government. Transparency International stated that corruption was "all-pervasive in India," that election campaigns for Parliament and State Legislature seats were often funded with unreported money, and that the Government had failed to combat the problem.

The Freedom of Information law allows citizens to request and receive documents from the Government that were considered to be in the public domain; however, the rules governing access to the information remained unclear.

There were 69 women in the 783-seat national legislature, and 7 women in the Cabinet of Ministers. Numerous women were represented in all major parties in the national and state legislatures. Constitutional amendments passed in 1992 reserved 30 percent of seats for women in elected village councils (Panchayats).

The Constitution reserved seats in Parliament and state legislatures for "scheduled tribes" and "scheduled castes" in proportion to their population (*see* Section 5). Indigenous people actively participated in national and local politics.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating abuses and publishing their findings on human rights cases; however, in some states and in a few circumstances, groups faced restrictions. Some domestic NGOs and human rights organizations faced intimidation and harassment by local authorities. In April, the Asian Center for Human Rights released a statement regarding alleged harassment by local authorities, including denial of government services and numerous visits from the security forces. Other human rights activists and NGOs also complained of surprise visits and other harassment by police and other government officials.

In October, Tamil Nadu police arrested Henri Tiphagne, the Executive Director of the NGO People's Watch and a member of the NHRC Advisory Committee. Tiphagne alleged that he was arrested in order to stop him from speaking at a meeting of the Campaign Against Torture. Police cited Tiphagne and his group's attempt to cross a police line illegally as the cause of his arrest.

Human rights monitors in Jammu and Kashmir were unable to move around the state freely to document human rights violations due to fear of retribution by security forces and countermilitants. Several individuals involved in the documentation of violations in Jammu and Kashmir, including lawyers and journalists, have been attacked in past years and in some cases killed. No such cases were reported during the year, although one monitor was killed during the April-May polls after the car she was travelling in ran over an improvised explosive device laid by militants to disrupt the electoral process (*see* Sections 1.a. and 1.g.).

International human rights organizations were restricted. Foreign human rights monitors historically have had difficulty obtaining visas to visit the country for investigation purposes. For example, in November 2003, the Government failed to respond to Secretary General of AI Irene Khan Zubeida's visa application. This application followed other unsuccessful visa applications in 2002 and 2003, after an AI campaign demanded a retrial of the Best Bakery case, and after AI released a report critical of state actions during the 2002 Gujarat riots. No visas were issued to representatives of HRW. The U.N. Special Rapporteur on Extrajudicial Killings did not apply to visit the country, but the Government denied visa requests submitted in previous years.

The main domestic human rights organization operating in the country was the Government-appointed NHRC. The Commission acted independently of the Government, often voicing strong criticism of government institutions and actions. However, the NHRC faced numerous institutional and legal weaknesses, which human rights groups said hampered its effectiveness. The NHRC does not have the statutory power to investigate allegations and can only request a state government to

submit a report. The NHRC was able to investigate cases against the military; however, according to a May order of the Home Ministry, it could only recommend compensation, and NHRC recommendations were not binding. Each state has its own human rights commission, and the NHRC only has jurisdiction if the state commission fails to investigate. Human rights groups alleged that state human rights commissions were more likely to be influenced by local politics than the NHRC and less likely to give a fair judgment.

Although the NHRC can issue recommendations, subpoena evidence and intervene in court proceedings, it had no enforcement powers. Some human rights activists called for an amendment of the 1993 Protection of Human Rights Act to address NHRC weaknesses.

The 1993 Protection of Human Rights Act recommends that each state establish a state human rights commission. As of October, Commissions existed in Assam, Chhattisgarh, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Manipur, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, and West Bengal. The Jammu and Kashmir state legislature established a state human rights commission, but it had no authority to investigate alleged human rights violations committed by members of the security forces. In addition to these state human rights commissions, legislative action established special courts in Tamil Nadu, Uttar Pradesh, and Andhra Pradesh to hear human rights cases. However, the courts in Uttar Pradesh did not function, despite a 1999 court order that they be reactivated.

The NHRC was active throughout the year, highlighting human rights abuses throughout the country, and recommending compensation for victims of human rights abuses. For example, in May, the NHRC ordered the State of Kerala to pay $222 (Rs. 10,000) to two Adivasi (tribal) youths who were allegedly detained illegally by police. Also in May, the Home Ministry authorized the NHRC to recommend relief payments to victims of human rights abuses by security forces. The decision was in response to a petition filed by widows of two men killed by a drunken BSF officer. The NHRC subsequently ordered the Government to pay the surviving families approximately $4500 (Rs. 200,000) each.

During the year, the NHRC proposed and lobbied for schools to include a human rights course in its standard curriculum, but at year's end no schools had implemented this suggestion. The NHRC also wrote to the University Grants Commission asking it to initiate courses in human rights. Several had complied by the end of the year.

At year's end, the CCDP, a Punjab-based human rights organization, had not heard testimony involving its report documenting 672 disappearance cases currently pending before the NHRC (*see* Section 1.b.). In 1998, the Supreme Court had directed the NHRC to investigate 2,097 cases of illegal cremation in Punjab's Amritsar district (*see* Section 1.b.). However, of the 2,097 cases, the NHRC has identified and named 693 of the missing youth. In November, the NHRC held the Punjab state government liable for the deaths of 109 persons and asked the Government to pay $5,555 (Rs. 242,725) in compensation to each of the victims' next of kin. This is the first time that compensation has been awarded for the alleged cremation in Amritsar of 2,097 unclaimed or unidentified bodies. The Punjab police have admitted that 109 persons were in its custody before they died and were cremated.

The Nanavati Commission, which was tasked with conducting a re-inquiry into the 1984 massacre of Sikhs in Delhi, did not complete its report and was issued another extension during the year. A two-member judicial commission to investigate riot-related violence in Gujarat, formed in 2002, also did not complete its report, and it too was issued an extension. It is unknown whether the findings of either report will be made public.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination on the basis of a person's race, sex, religion, place of birth, or social status, and government authorities worked to enforce these provisions with varying degrees of success. Despite laws designed to prevent discrimination, social and cultural practices as well as other legislation had a profound discriminatory impact, and discrimination against women, persons with disabilities, indigenous people, homosexuals, and national, racial, and ethnic minorities was a problem. The traditional caste system, as well as differences of ethnicity, religion, and language, deeply divided the society. According to the National Commission for Scheduled Castes and Scheduled Tribes, caste clashes were frequent in Uttar Pradesh, Bihar, and Tamil Nadu.

Women.—Domestic violence was common and a serious problem. According to the National Family Health Survey released in 2002, 56 percent of the women said that domestic violence was justified. These sentiments led to underreporting and, com-

bined with ineffective prosecution and societal attitudes, made progress against domestic violence difficult. According to the National Crime Records Bureau (NCRB), 49,170 cases of domestic violence were reported in the country from 1998–2001. The NCRB reported in July that the number of rapes reported in 2003 had declined from 2002, from 16,373 to 14,809, while reported molestations had decreased from 33,943 to 31,716. At year's end, the NCRB had not released new data.

The Home Ministry reported that in New Delhi during the past year, there were 130 cases of reported dowry deaths, 490 instances of rape, 489 instances of molestation of women, 1,211 instances of cruelty by the husband or in-laws, and 1,599 instances of sexual harassment. In response to the high rate of rape, New Delhi police held two workshops per week on gender sensitivity.

The major issue was the high rate of marriage of underage girls. According to the Health Ministry's Country Report on Population and Development, half of all women were married by the age of 15, although the legal age is 18.

The press reported that violence against women was increasing, although some local women's organizations attributed the increase to increased reporting. Only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, thus fostering a climate of impunity. Upper caste gangs often used mass rape as an intimidation tactic against lower castes, and gang rapes often were committed as punishment for alleged adultery or as a means of coercion or revenge in rural property disputes. The number of reported rape cases and the extent of prosecution varied from state to state.

The Government prosecuted rape cases. For example, in April, the Delhi High Court criminally charged 4 presidential bodyguards for their involvement in the October 2003 gang rape of a 17-year-old girl. In June, four men were sentenced to death for raping and subsequently murdering a 6-year-old girl in June 2003.

Providing or taking dowry is illegal under the Dowry Prohibition Act of 1961; however, dowries continued to be offered and accepted, and dowry disputes were a serious problem. In a typical dowry dispute, the groom's family harassed a new wife whom they believed had not provided a sufficient dowry. This harassment sometimes ended in the woman's death, which the family often tried to portray as a suicide or accident. Data collected by the Ministry of Home Affairs and the NCRB show that there has been an overall decline of reported dowry deaths in the last 3 years, decreasing from 6,851 in 2001 to 6,822 in 2002 and then declining further to 6,285 in 2003. The number of dowry related complaints received by the National Commission for Women (NCW) as reported by the Home Ministry also showed a decline. Dowry harassment complaints in 2002 numbered 1,074; in 2003, complaints numbered 895, and complaints numbered 453 in the current year. However, this decline may be a result of under-reporting and not a result of an overall decline. Many women allegedly committed suicide because of dowry pressure.

Usually at a disadvantage in dowry disputes, women have begun to speak out against dowry demands. For example, in August 2003, Nisha Sharma filed a complaint with the Delhi police when her prospective groom and his family asked her father for more dowry, minutes before the wedding. The potential groom was detained for 14 days while formal charges were filed for violation of the country's dowry laws. The case received considerable publicity, and her story has become part of the school curriculum in Delhi to teach young children about the problems of the dowry system.

Under the Penal Code, courts must presume that the husband or the wife's in-laws are responsible for every unnatural death of a woman in the first 7 years of marriage—provided that harassment was proven; however, in practice police did not follow these procedures consistently. In such cases, police procedures required that an officer of the rank of deputy superintendent or above conduct the investigation and that a team of two or more doctors perform the postmortem procedures.

In July, the Madhya Pradesh State Government reportedly created the position of a Chief Dowry Prevention Officer (CDPO) and required that all government servants seeking to get married produce a sworn affidavit by the bride, the groom, and his father that no dowry exchanged hands. Several other states also had CDPOs, including Kerala and Bihar, although it was unclear how effective they were.

Cases of dowry murders were reported regularly in the media. One of hundreds of such cases was that of Amarjita Kaur, who was married to Raj Kumar in 1999, and who was burned alive in May by her husband and in-laws in Punjab because of her parents' inability to keep up with her in-laws' ever-increasing dowry-related demands. Punjab police filed murder charges against the deceased's husband and in-laws, and at year's end the cases were still pending.

In January, the media reported on the case of Jyoti Chandra, a woman in Uttar Pradesh whose husband and in-laws tried to kill her and their daughter by hitting the child's head against the floor. The woman and her daughter were rescued and

taken to a hospital. Her husband Promod was in judicial custody while the rest of the family disappeared.

Sati, the practice of burning widows on the funeral pyres of their husbands, was banned in the 1800s but was still practiced in some areas. For example, in April, women's organizations in Rajasthan challenged a judgment of the special court, which acquitted 11 defendants in a Sati case from 1987. The women's groups filed a Public Interest Litigation suit after the state government declined to appeal the acquittal.

In May, in Uttar Pradesh, the in-laws of a 24-year-old woman electrocuted her, causing the amputation of her limbs, after she refused to succumb to the sexual advances of her father-in-law. No action was taken, and none was expected against her in-laws.

During the year, honor killings continued to be a problem, especially in the northern states of Punjab and Haryana. Human rights organizations estimated that up to 10 percent of all killings in those two states were so-called honor killings; however, the true number of such killings may be much higher. In September, an honor killing was reported in Rajasthan, in which a woman married a Dalit man, and was later killed by family members.

Dalit women were often singled out for harassment. For example, they were occasionally stripped naked by mobs and paraded in public for offending higher castes. In February, a 50-year-old Haryana woman had her nose cut off by a man because her son was in love with his niece, a non-Dalit. Police made no arrests in the case, stating they had no orders to do so, and none was expected.

Numerous laws exist to protect women's rights, including the Equal Remuneration Act of 1976, the Prevention of Immoral Traffic Act of 1956, the Sati (Widow Burning) Prevention Act of 1987, and the Dowry Prohibition Act of 1961. However, the Government often was unable to enforce these laws, especially in rural areas where traditions were deeply rooted. According to press reports, the rate of acquittal in dowry death cases was high, and due to court backlogs, it took an average of 6 to 7 years to conclude such cases.

The Government has taken a number of steps to assist the victims of crimes against women. These include establishing telephonic help lines, creating short-stay homes, providing counseling, occupational training, medical aid, and other services, and creating grant-in-aid schemes to provide rehabilitation rescue.

Prostitution was illegal, but commonplace. According to UNICEF, the country contained half of the 1 million children worldwide who entered the sex trade. Many indigenous tribal women were forced into sexual exploitation (*see* Section 6.c.).

In Lucknow in February, six tribal women were reportedly raped while working in a brick kiln. The police initially refused to lodge a complaint and alleged that three of the six victims had not actually been raped. After higher authorities intervened, police filed charges and arrested two suspects.

In recent years, prostitutes began to demand legal rights, licenses, and reemployment training. For example in June, numerous sex workers in Goa were displaced after authorities demolished their homes. The sex workers, who refused the Government's offer of rehabilitation, did so, according to the chairperson of the NCW, because they were misled. The NCW indicated that the state government was prepared to renew its rehabilitation package for the women.

The country is a significant source, transit point, and destination for many thousands of trafficked women (*see* Section 5, Trafficking).

Sexual harassment was common, with a vast majority of cases unreported to authorities. In June 2003, a senior Professor at the Madras Institute of Development Studies published a study in which she chronicled the hazards faced by some women in the workforce. Among these were physical and verbal abuse from male supervisors, restricted use of toilets, and the inability to take lunch breaks. In June, the NCW and the Press Institute of India jointly released a report that found that a majority of women experienced gender discrimination at their workplaces.

Often, attempts by women to report harassment resulted in further problems or dismissal. In January, a woman who was general manager of Dena Bank in Mumbai was suspended after she filed sexual harassment charges against senior bank officials. There were no developments in the case at year's end. In April, a Sahara airlines executive employee alleged in Mumbai that she suffered sexual harassment. The 29-year-old woman was subsequently fired. At year's end, the case was ongoing.

On April 27, the Supreme Court determined that a victim of sexual harassment could be awarded compensation based on the findings of an internal departmental report or investigation of the case.

The law prohibits discrimination in the workplace; however, enforcement was inadequate. In both rural and urban areas, women were paid less than men for the

same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to women owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. In a positive development, state governments supported microcredit programs for women that began to have an impact in many rural districts.

In February, the Government amended the divorce laws to expand the venues where a woman could file and obtain a divorce. Earlier provisions in the Hindu and Special Marriage Acts forced women to file cases in cities or towns where they resided during the marriage or where the marriage took place; however, the amendment permits divorce cases where the woman presently resides. At year's end, there were no changes to the triple talaq provisions.

In September, after a request by the All-India Democratic Women's Association, the army now allows female military recruits to be examined by female doctors if they desire. The situation arose after a female soldier was denied promotion to lieutenant when she refused to undergo gynecological tests by a male doctor.

Under many tribal land systems, notably in Bihar, tribal women do not have the right to own land. Other laws relating to the ownership of assets and land accorded women little control over land use, retention, or sale. However, several exceptions existed, such as in Ladakh and Meghalaya, where women could control the family property and inheritance.

Children.—The Government has not demonstrated a commitment to children's rights and welfare. The Government does not provide compulsory, free, and universal primary education. According to the Government's statistics from 2003, 165 million of the 200 million children between the ages 6–14 attend school. The upper house of Parliament failed to take any action on the constitutional amendment passed by the lower house of Parliament in 2002 that provided all children aged 6 to 14 the right to free and compulsory education provided by the State. In contrast to the Government's figures, UNICEF reported that of a primary school-age population of approximately 203 million, approximately 120 million children attended school. However, UNICEF reported that 76.2 percent of all children aged 11 to 13 years were attending school. A significant gender gap existed in school attendance, particularly at the secondary level, where boys outnumbered girls 59 to 39 percent, according to the latest government statistics released in 2001.

The Constitution provides for free medical care to all citizens; however, availability and quality were problems, particularly in rural areas.

The law prohibits child abuse; however, there were societal patterns of abuse of children, and the Government did not release comprehensive statistics regarding child abuse.

In July, the Delhi High Court ruled that victims of child abuse should not be examined in an open courtroom and should be allowed to give testimony in a cordial and friendly environment. The court also stated that a victim's father could be present and that the lawyer of the accused could not directly question the child.

Abuse of children in both public and private educational institutions was a problem. Schoolteachers often beat children. In February in Amritsar, an 18 year-old Dalit boy was shot and killed by the Principal of the Government Senior Secondary School in Chhajjalwadi. In May, a student was hospitalized after a female teacher injured his ear for coming to class without a required book. Also in May in Faridkot, 12 female students belonging to the Scheduled Castes and Tribes quit school after their teacher harassed them. No action was taken, and none was expected.

The Government was responsive to some claims of violence against children. In May, a village Panchayat in the state of Uttar Pradesh sentenced a primary school teacher to death for allegedly molesting a minor student. In June, the Tamil Nadu Child Rights Protection Network objected to the Tamil Nadu State Human Rights Commission order attesting corporal punishment in schools, and highlighted instances of torture and sexual abuse of children in schools.

Children were subjected to abuse during religious ceremonies. In August, a rare temple ritual involving burying children for a few minutes in a pit to propitiate a goddess was reported from southern Tamil Nadu despite a ban imposed on this practice in 2002. In March, activists challenged in the Mumbai High Court the ordainment of 9-year-old boy, Priyal Bagericha, as a Jain monk. Child rights activists alleged that various religious sects ordained children as young as 8 years. These activists also claimed that such children were not competent to make such a decision. According to reliable media reports, 600 such child monks existed in various Jain sects. The High Court ruled that it was acceptable for small children to become monks, as the children had the option to go back and live with their families.

The Child Marriage Restraint (Amendment) Act prohibits child marriage, a traditional practice in the northern part of the country, and raised the age requirement

for marriage for girls to 18; however, the Government failed to enforce the Act. Each year in April and May, during the Hindu festival of Askhay Tritiya, thousands of child marriages are performed in Madhya Pradesh, Chhattisgarh, and Rajasthan. Although state governments conducted awareness campaigns during the year, enforcement was weak, and the practice was accepted in certain communities.

Trafficking and commercial sexual exploitation of children was a problem during the year (*see* Section 5, Trafficking). In June, social activists, journalists, and the parents of 11 girls who complained of being tortured and forced into sex slavery intervened at a circus in Uttar Pradesh after the district magistrate failed to act on their complaints. While one circus owner was arrested on charges of sexual exploitation, none of the girls, all of whom were from Nepal, were allowed to go home. In October, five minor girls were returned to the custody of the Nepali NGO Maiti Nepal after the girls were rescued from a circus in north Bihar. Legal proceedings continued at year's end against the owner of the circus under the Indian Child/Bonded Labor Act and the Minimum Wages Act, and the circus was shut down.

Female infanticide was a problem, and the traditional preference for male children continued. According to statistics, the natural pattern of child sex distribution suggested there should be 952 girls for every 1,000 boys, but in the last 2 years in Tamil Nadu, the ratio has been as low as 727 in some rural areas of the state, according to the 2001 Census. Sex selective feticide was the cause for the drop. Although the law prohibits the use of amniocentesis and sonogram tests for sex determination, NGOs in the area reported that family planning centers in the state reveal the sex of the fetus, and the Government did not effectively enforce the law prohibiting termination of a pregnancy for sexual preference. In addition, parents often gave priority in health care and nutrition to male infants. Women's rights groups pointed out that the burden of providing girls with an adequate dowry was one factor that made daughters less desirable. The states of Punjab, Haryana, Gujarat, Uttar Pradesh, Himachal Pradesh, Delhi, parts of Tamil Nadu, Maharashtra, and Karnataka reported particularly low male/female ratios, with Punjab reporting the lowest statewide totals in the country: 793 females to 1000 males.

Trafficking in Persons.—The Constitution and the Immoral Trafficking Prevention Act (ITPA), supplemented by the Indian Penal Code, prohibit trafficking in human beings, and the law contains severe penalties for violations; however, trafficking in persons is a significant problem and some government officials participated in and facilitated the practice.

The ITPA toughened penalties for trafficking in children, particularly by focusing on traffickers, pimps, landlords, and brothel operators, while protecting underage girls as victims. Conviction for an offense committed against a child (under 16 years) results in imprisonment for 7 years to life. In the case of minors (16 to 18 years), the punishment is from 7 to 14 years. Other penalties under the Act range from minimum terms of imprisonment of 1 year for brothel keeping, to minimum terms of 7 years to life imprisonment for detaining a person, with or without consent, for prostitution. During the year there were more than 170 prosecutions against traffickers. Although the police were charged with enforcing the country's laws on prostitution and trafficking in women and children, NGOs, observers, and women in prostitution said that police actions were often a part of the problem. NGOs alleged that corruption at the enforcement level helped perpetuate trafficking.

The country was a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labor. There were an estimated 500,000 child prostitutes nationwide. More than 2.3 million girls and women were believed to be working in the sex industry within the country, and experts believed that more than 200,000 persons were trafficked into, within, or through the country annually. Women's rights organizations and NGOs estimated that more than 12,000 and perhaps as many as 50,000 women and children were trafficked into the country annually from neighboring states for commercial sexual exploitation. According to an International Labor Organization (ILO) estimate, 15 percent of the country's estimated 2.3 million prostitutes were children, while the U.N. reported that an estimated 40 percent were below 18 years of age. Tribals made up a large proportion of the women forced into sexual exploitation.

The country was a destination country for Nepali and Bangladeshi women and girls trafficked for the purpose of labor and prostitution. Internal trafficking of women and children was widespread. To a lesser extent, the country was an origin for women and children trafficked to other countries in Asia, the Middle East, and the West. The country also served as a transit point for Bangladeshi girls and women trafficked for sexual exploitation to Pakistan, and for boys trafficked to the

Gulf States to work as camel jockeys. NGOs reported that sexual exploitation of children for sex tourism increased sharply in the states of Goa and Kerala.

Trafficking of children for commercial sexual exploitation from Nepal and from Bangladesh is estimated at 6,000 to 10,000 annually from each country. Girls as young as 7 years of age were trafficked from economically depressed neighborhoods in Nepal, Bangladesh, and rural areas of the country to the major prostitution centers of Mumbai, Calcutta, and New Delhi. NGOs estimate that there were approximately 100,000 to 200,000 women and girls working in brothels in Mumbai and 40,000 to 100,000 in Calcutta. In West Bengal, the organized traffic in illegal Bangladeshi immigrants was a principal source of bonded labor. Calcutta was a convenient transit point for traffickers who sent Bangladeshis to New Delhi, Mumbai, Uttar Pradesh, and the Middle East.

Within the country, women from economically depressed areas often moved into the cities seeking greater economic opportunities, and once there were often forced by traffickers into prostitution. In some cases, family members sold young girls into prostitution. Extreme poverty, combined with the low social status of women, often resulted in parents handing over their children to strangers for what they believed was employment or marriage. In some instances, parents received payments or the promise that their children would send wages back home.

Many indigenous tribal women were forced into sexual exploitation. According to the Indian Center for Indigenous and Tribal Peoples, more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation; many came from tribes driven off their land by national park schemes. A Haryana-based NGO revealed widespread trafficking of teenaged girls and young boys from poverty-stricken Assam to wealthier Haryana and Punjab for sexual slavery under the pretext of entering into arranged marriages or for forced labor.

Some boys, often as young as age 4, were trafficked to the Middle East or the Persian Gulf as jockeys in camel races. Some boys ended up as beggars in Saudi Arabia during the Hajj (pilgrimage). The majority of such children worked with the knowledge of their parents, who received $200 (Rs 9,300) for their child's labor. Many children may also have been kidnapped for forced labor, with kidnappers earning approximately $150 (Rs 7,000) per month from the labor of each child. The child's names were usually added to the passport of a Bangladeshi or citizen woman who already had a visa for the Gulf. Girls and women were trafficked to the Persian Gulf states to work as domestic workers or for commercial sexual exploitation.

The NCW reported that organized crime played a significant role in the country's sex trafficking trade and that trafficked women and children were frequently subjected to extortion, beatings, and rape. Although a few women were abducted forcibly or drugged, most were trafficked through false offers of marriage, employment, or shelter. Poverty, illiteracy, and lack of employment opportunities contributed to the trafficking problem as well as police corruption and collusion. Although corruption was endemic, there was no known anticorruption initiative linked specifically to trafficking during the year. NGOs alleged that issues such as ignorance, a lack of political resolve, and corruption at the enforcement level perpetuated the problem.

Victims of trafficking were subject to threats, including emotional blackmail, violence, and confinement, as well as the threat of apprehension by authorities, detention, prosecution, and deportation. Women involved in prostitution in Mumbai and Calcutta claimed that harassment, extortion, and occasional arrests on soliciting charges usually characterized police intervention. NGOs, victims, and the media continued to identify corruption at the enforcement level as an impediment to swifter and fairer justice for trafficked women and children.

In many cases, police or the staff of government remand centers, where rescued victims were housed temporarily, sexually abused trafficking victims. In many cases, arrested prostitutes were quickly returned to the brothels after the brothel operators paid bribes to the authorities. In still other cases, arrested prostitutes were released into the custody of traffickers and madams posing as relatives. In these cases, the debt owed by the girls to the brothel operators and traffickers further increased, as the costs of bribing or legally obtaining release of the girls was added to their labor debt.

Some NGOs knowledgeable about the trafficking situation identified traffickers and the locations of girls being held captive by brothel owners. However, other NGOs were reluctant to trust police with this information, due to the past conduct of police in brothel raids and the likelihood that many trafficking victims would be arrested and re-victimized rather than assisted by such raids. Several NGOs have had significant successes, however, in working with police to target brothels with children.

The ITPA required police to use only female police officers to interrogate girls rescued from brothels. The ITPA also required the Government to provide protection and rehabilitation for these rescued girls. In addition, under the ITPA, prostitution is not a crime; the ITPA criminalizes only solicitation or engaging in sex acts in or near a public place. However, the vast majority of arrests made under ITPA were for solicitation rather than trafficking or trafficking-related crimes. During the year, this practice was changing and in Delhi and Mumbai, police reportedly no longer arrested trafficked women and children for soliciting, and in Tamil Nadu, such arrests diminished significantly. Some NGOs noted that this ambiguity, which was intended to protect trafficking victims, instead was exploited to protect the commercial sex industry.

Due to selective implementation of the ITPA, the rescue of sex workers from brothels often led to their re-victimization. Using ITPA provisions against soliciting or engaging in sexual acts, police regularly arrestd sex workers, extorted money from them, evicted them, and took their children from them. Therefore, although the intention of the ITPA was to increase enforcement efforts against the traffickers, pimps, and border operators, the opposite occurred. Implementation of the ITPA's provisions for protection and rehabilitation of women and children rescued from the sex trade was improving steadily. The Government has increased police training, inter-state coordination of anti-trafficking efforts, studies and maps of trafficking patterns, cooperation with NGOs, and improved the number of shelter facilities available to rescued trafficking victims.

Over the last several years, arrests and prosecutions under the ITPA increased slightly, while all indications suggested a growing level of trafficking into and within the country. The NHRC released a comprehensive 2-year study of trafficking issues in the country. It included information on cross-border trafficking and extensive data on trafficking victims currently in commercial sex work, rescued victims, concerned NGOs, clients, and traffickers and brothel keepers, and covered all aspects of prevention, protection and prosecution. The Government, the judiciary, law enforcement and NGOs lauded the report for its thoroughness, and the Government said it would use the study's analysis to frame anti-trafficking policy changes.

The Government cooperated with groups in Nepal and Bangladesh to deal with the problem and began to negotiate bilateral anti-trafficking agreements. Training and informational meetings took place under the Action Against Trafficking and Sexual Exploitation of Children (AATSEC) and South Asian Association for Regional Cooperation. The NHRC asked the committee that oversees the Hajj to require individual passports for children instead of allowing them to be included on that of their escort, in order to reduce trafficking of children. NHRC also advised the Government of West Bengal to make efforts to educate Muslims about child trafficking. In addition, the Central Police Academy conducted, in conjunction with local state police academies, improved training designed in part to sensitize officers to the problem of trafficking and strengthen police responsiveness to trafficking victims. Efforts to improve NGO coordination were being made in Calcutta, where 10 NGOs met monthly as part of the AATSEC forum. Every 3 months, the group attempted to meet with its Bangladeshi and Nepalese counterparts. Calcutta NGOs such as Sanlaap also were seeking to build stronger working relationships with local police.

NGOs also have demanded that special ITPA courts for speedy resolution of cases allow videotaped testimony so that underage victims need not be summoned back for trial.

In February, the NHRC held a 2-day program for judges, law enforcement, and government officials on trafficking, and in August, the NHRC released a study on the trafficking of women, recommending the creation of a national anti-trafficking agency. According to NGOs, there were significant improvements in investigations and arrests of traffickers in Mumbai, New Delhi, Chennai, Hyderabad, and Calcutta. There were roughly 80 NGOs in 10 states working for the emancipation and rehabilitation of women and children trafficked into the sex trade. A group on child prostitution established by the NHRC included representatives from the NCW, the Department of Women and Child Development, NGOs, and UNICEF. It continued to meet throughout the year to devise means of improving enforcement of legal prohibitions.

Persons With Disabilities.—The Persons with Disabilities Act provides equal rights to all persons with disabilities; however, advocacy organizations admitted that its practical effects have so far been minimal, in part due to a clause that makes the implementation of programs dependent on the "economic capacity" of the Government. Widespread discrimination occurred against persons with physical and mental disabilities in employment, education, and in access to health care. Neither law nor regulation required accessibility for persons with disabilities. Government

buildings, educational establishments, and public spaces throughout the country have almost no provisions for wheelchair access.

Mental health care was a problem. Hospitals were overcrowded and served primarily as a dumping ground for the mentally handicapped. Patients generally were ill-fed, denied adequate medical attention, and kept in poorly ventilated halls with inadequate sanitary conditions. In July, the NHRC announced that insufficient attention was paid to issues of the mentally handicapped and called for better enforcement of national laws. At year's end, no action was taken on the 2001 NHRC recommendation to remove all persons with mental illness from jails.

The Government provided special arrangements for disabled voters during the April-May parliamentary elections, but was not able to meet needs on a countrywide basis. Pursuant to a Supreme Court directive, the Election Department attempted to make all polling places accessible by providing wooden ramps. However, disabled rights activists criticized the Election Commission's lack of compliance and delay, and were physically prevented from protesting outside of the Commission's office in April. The Government provided access to most polling stations in larger cities like New Delhi, but access in rural areas was uneven.

The Disabled Division of the Ministry of Welfare delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the Government to put a rehabilitation center in each of more than 400 districts, but services were concentrated in urban areas. Moreover, the impact of government programs was limited. Significant funding was provided to a few government organizations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India. With the adoption of the Persons with Disability Act, a nascent disabled rights movement slowly raised public awareness of the rights of persons with disabilities.

The National Commission for Persons with Disabilities (NCPD) had the responsibility to recommend to the Government specific programs to eliminate inequalities in status, facilities, and opportunities for disabled persons, review the status and condition of institutions delivering services and submit annual reports with recommendations. In February, the Government constituted a new NCPD headed by a former Governor, Sunder Singh Bhandari. In April, the Rajasthan High Court directed the State Government to promote the establishment of special schools for disabled children in both the public and private sectors; however, a majority of teachers have not been trained on how to meet the special needs of disabled children. Also, the National Center for Promotion of Employment for Disabled People stated in September that there was a shortage of educational institutions for the disabled and that the admissions process was marked by harassment.

In July, disabled rights NGOs reported that the disabled were not able to obtain duty free imports of artificial limbs, crutches, wheelchairs, walking frames, and other medical needs. They also claimed that no effort was being made to make railway compartments, platforms, and railways accessible to the disabled, and noted that less than 1 percent of the disabled were employed.

The Equal Opportunities, Protection of Rights and Full Participation Act of 1995 stipulates that 3 percent of all education slots be reserved for the disabled; however, statistics showed that only about 1 percent of students were disabled. The Times Insight Group reported in September that most colleges and universities did not know about this law.

The Government provided special railway fares, education allowances, scholarships, customs exemptions, and budgetary funds from the Ministry of Rural Development, and rehabilitation training to assist the disabled; however, implementation of these entitlements was not comprehensive. Parents of children with developmental disabilities lobbied the Government for a special security fund; however, no action was taken on this request at year's end.

In March, disabled rights activists reported that airlines and airports were not providing adequate accommodations for the disabled. These included failure to adjust toilets, eating and water facilities, and accessible parking for the physically impaired.

National/Racial/Ethnic Minorities.—The Constitution and the 1955 Civil Rights Act outlaws the practice of untouchability, which discriminates against Dalits and other people defined as Scheduled Castes; however, such discrimination remained an important aspect of life. Despite longstanding efforts by the Government to eliminate the discriminatory aspects of caste, the practice has remained, and widespread discrimination based on the caste system occurred throughout the country.

The Constitution gives the President the authority to identify historically disadvantaged castes, Dalits, and tribal people (members of indigenous groups histori-

cally outside the caste system). These "scheduled" castes, Dalits, and tribes were entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. The impact of reservations and quotas on society and on the groups they were designed to benefit was a subject of active debate. According to the 2001 census, scheduled castes, including Dalits, made up 16 percent (166.6 million) of the population, and scheduled tribes were 8 percent (84.3 million) of the country's population.

Many rural Dalits worked as agricultural laborers for caste landowners without remuneration. The majority of bonded laborers were Dalits (*see* Section 6.c.). Dalits, among the poorest of citizens, generally did not own land, and often were illiterate. They faced significant discrimination despite laws to protect them, and often were socially prohibited from using the same wells and from attending the same temples as caste Hindus, and from marrying caste Hindus. In addition, they faced social segregation in housing, land ownership, and public transport. Dalits were malnourished, lacked access to health care, worked in poor conditions (*see* Section 6.e.), and continued to face social ostracism. NGOs reported that crimes committed by higher caste Hindus against Dalits often went unpunished, either because the authorities failed to prosecute vigorously such cases or because the crimes were unreported by the victims, who feared retaliation.

On May 16, approximately 100 Dalit houses in the village of Kalapatti in Tamil Nadu were set on fire during the night, just days after the Government announced the general election results. Upper caste residents who blamed Dalits for their candidates' loss reportedly committed the attacks. In July, police in Tamil Nadu reportedly used excessive force to target Dalits while responding to riots at a religious festival. The injured included approximately 20 Dalits, 8 of whom required hospitalization. The riot broke out when upper-caste Hindus forcefully barred Dalits from participating in the festival.

Christians historically rejected the concept of caste; however, because many Christians descended from low caste or Dalit families, many continued to suffer the same social and economic limitations, particularly in rural areas. Low caste Hindus who converted to Christianity lost their eligibility for affirmative action programs. Those who became Buddhists or Sikhs did not. In some states, government jobs were reserved for Muslims of low caste descent.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offenses against disadvantaged persons and provides for stiff penalties for offenders; however, this act had only a modest effect in curbing abuse. Human rights NGOs alleged that caste violence was on the increase.

Intercaste violence claimed hundreds of lives; it was especially pronounced in Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Tamil Nadu, and Andhra Pradesh.

Social pressures to enforce rigid caste lines in all social settings led to episodes of vigilante retribution. While much more rare in urban settings, examples of intolerance occurred regularly in rural parts of the country. Complicated social and ethnic divisions in society created severe localized discrimination. For example, in July, 30 men from the Yadav community in Madhya Pradesh, with the backing of the village council, allegedly gang raped three Dalit women. The gang rape is thought to have been in response to the elopement of a girl from the Yadav community with a Dalit boy. Police arrested 8 persons, and cases have been filed against 20 unidentified persons. A day after the incident, a village leader allegedly stripped a Dalit woman in public view. The Madhya Pradesh Chief Minister indicated she was considering ordering a community fine on the entire village where residents were mute spectators to these acts; however, no action reportedly was taken.

Discrimination against Dalits covered the entire spectrum of social, economic, and political activities, from withholding of rights to killings. In January, Dalits participating in a national Dalit Swadhikar rally in Rajasthan were denied entry to the Shrinathji temple in Nathdwara. In May, a Dalit woman who had filed a complaint at the Aurangabad police station, died from severe burns, after allegedly being removed from the police station and set on fire by the officer in charge. The officer was suspended and charged with murder.

The BJP government in Rajasthan has selectively withdrawn a large number of cases related to communal conflicts filed during the tenure of the previous Congress-led government. Most cases were filed against the Hindu extremist Rashtriya Swayamsevak Sangh and other Hindu nationalist groups. However, cases filed against minority groups involved in the same incidents have not been withdrawn.

There were some positive developments for Dalits during the year. In April, the Orissa state government reportedly began paying compensation to victims under the Scheduled Caste and Tribes (Prevention of Atrocities) Act, 1989, and Rules 1995 following intervention by the NHRC. In January, the first Dalit woman was elected

as mayor of the Chandigarh Municipal Corporation. In July, the Finance Minister added an additional $10 million (RS 5 billion) to the National Minorities Development and Finance Corporation.

Indigenous People.—The Innerline Regulations enacted by the British in 1873 provide the basis for safeguarding tribal rights in most of the northeastern border states, and in practice, the Regulations are followed. These regulations prohibit any person, including citizens from other states, from going beyond an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from the protected areas without prior authorization. No outsiders were allowed to own land in the tribal areas without approval from tribal authorities who, depending on the region, were elected or nominated by their constituency.

Data from the 2001 census published in September indicated that 8.2 percent of the population belonged to scheduled tribes. According to the ICITP, 80 percent of the tribal population lived below the poverty level, and more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into situations of economic and sexual exploitation (*see* Section 5, Trafficking, and Section 6.c.). The 1955 Protection of Civil Rights Act prescribed special courts to hear complaints of atrocities committed against tribal people. In February, the Supreme Court decided that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 still applied to crime victims who were members of a scheduled tribe and caste, even if they had converted. The decision was in response to an appeal of a Kerala High Court decision, which held that because a rape victim had converted to Christianity, she could not receive the Act's protection.

Despite constitutional safeguards, the rights of indigenous groups in the eastern parts of the country often were ignored. NGOs reported that in 2001, 4,121 cases of crimes against scheduled tribes were reported to the NHRC throughout the country. In recent years, crime against scheduled tribes has risen. In 1998, 725 cases were reported, as opposed to 6,774 in 2002, the last year for which data were available. Indigenous peoples suffered discrimination and harassment, were deprived of their land, and subjected to torture and to arbitrary arrest.

There was encroachment on tribal land in almost every eastern state, including by illegal Bangladeshi immigrants, and by businesses that illegally removed forest and mineral products. In July, forest department staff ignored a Supreme Court order and forcefully evacuated a tribal village in the Betul district of Madhya Pradesh. Persons from other backgrounds often usurped places reserved for members of tribes and lower castes in national educational institutions. Mob lynching, arson, and police atrocities against tribal persons occurred in many states (*see* Section 1.c.). For example, in May, a tribal woman was forced to parade naked in Orissa because she was suspected of being a witch. A crowd dragged the woman into the street, undressed her, forced her to eat human excreta, and tried to hang her from a tree. No action was taken against those responsible.

Numerous tribal movements demanded the protection of land and property rights. The Jharkhand Movement in Bihar and the Bodo Movement in Assam reflected deep economic and social grievances among indigenous peoples. As a result of complaints, largely tribal-populated states were created in 2000 from the Jharkhand area of Bihar and the Chhattisgarh region of Madhya Pradesh. Authorities provided local autonomy to some tribal people in the northeast.

Other Societal Abuses and Discrimination.—Section 377 of the Penal Code punishes acts of sodomy, buggery and bestiality; however, the law is commonly used to target, harass, and punish lesbian, gay, bisexual, and transgender persons. Human rights groups stated that gay and lesbian rights were not viewed as human rights in the country.

Gays and lesbians faced discrimination in all areas of society, including family, work, and education. Activists reported that in most cases, homosexuals who do not hide their orientation were fired from their jobs. Homosexuals also faced physical attacks, rape, and blackmail. Police have committed these crimes and used the threat of Section 377 to ensure the victim did not report the incidents. The overarching nature of Section 377 allowed police to arrest gays and lesbians virtually at will, and officers used the threat of arrest to ensure no charges would be filed against them.

On September 2, the Delhi High Court dismissed a legal challenge to Section 377 of the Indian Penal Code. Plaintiffs filed the case in June 2001 after police arrested four gay and lesbian rights workers at the NAZ Foundation International and National Aids Control Office premises in Lucknow, Uttar Pradesh, for conspiring to commit "unnatural sexual acts" and possessing "obscene material" which was reportedly safer-sex educational materials construed as pornography. The AIDS workers were kept in captivity for more than 45 days and were refused bail twice before

it was granted by the High Court. The Court ruled that the validity of the law could not be challenged by anyone "not affected by it," as the defendants had not been charged with a sex act prohibited by law.

Homosexuals have been detained in clinics for months and subjected to treatment against their will. The NAZ Foundation filed a petition with the NHRC regarding a case in which a man was subjected to shock therapy. The NHRC declined to take the case, as gay and lesbian rights were not under its purview.

Authorities estimated that HIV/AIDS had infected approximately 4 million persons, and there was significant societal discrimination against persons with the disease. According to the ILO, 70 percent of persons suffering from HIV/AIDS faced discrimination.

In Ahmedabad in April, an HIV positive woman committed suicide at her home after allegedly being harassed by her co-workers.

HRW said that many doctors refused to treat HIV-positive children, and that some schools expelled or segregated children because they or their parents were HIV-positive. Many orphanages and other residential institutions rejected HIV-positive children or denied them housing.

In January, a Mumbai High Court ruling determined that HIV-positive persons could not be fired. There was no information available on the implications of this ruling at year's end.

Section 6. Worker Rights

a. Right of Association.—The Constitution provides for the right of association, and the Government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorization. More than 400 million persons made up the country's active work force, and some 30 million of these workers were employed in the formal sector. The rest overwhelmingly were agricultural workers and, to a lesser extent, urban non-industrial laborers. While some trade unions represented agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members were part of the 30-million-member formal sector. Of these 13 to 15 million unionized workers, some 80 percent were members of unions affiliated with 1 of the 5 major trade union centrals.

In practice, legal protections of worker rights were effective only for the organized industrial sector. Outside the modern industrial sector, laws were difficult to enforce. The authorities generally prosecuted and punished those persons responsible for intimidation or suppression of legitimate trade union activities, when the victims were members of nationally organized unions. Unaffiliated unions were not able, in all instances, to secure for themselves the protections and rights provided by law. Union membership was rare in the informal sector.

The Trade Union Act prohibits discrimination against union members and organizers, and employers were penalized if they discriminated against employees engaged in union activities.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively. Collective bargaining is the normal means of setting wages and settling disputes in unionized plants in the organized industrial sector. Trade unions vigorously defended worker interests in this process. Although a system of specialized labor courts adjudicates labor disputes, there were long delays and a backlog of unresolved cases. When the parties are unable to agree on equitable wages, the Government may establish boards of union, management, and government representatives to determine wages. The legislation makes a clear distinction between civil servants and other workers. Public service employees have very limited organizing and collective bargaining rights.

Trade unions often exercised the right to strike, but public sector unions were required to give at least 14 days' notice prior to striking. Some states have laws requiring workers in certain nonpublic sector industries to give notice of a planned strike.

The Essential Services Maintenance Act allows the Government to ban strikes in government-owned enterprises and requires conciliation or arbitration in specified essential industries; however, essential services never have been defined in law. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this act. The act thus is subject to varying interpretations from state to state. State and local authorities occasionally use their power to declare strikes illegal and force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

The Kerala High Court declared in 2002 that all general strikes were illegal and that all organizers of protests would be liable for losses caused by shutdowns. The

Supreme Court upheld the verdict, drawing attention to the difference between a complete closedown of all activities and a general strike. While it is likely that the ruling was introduced in relation to political strikes, unions stated that it remained a potential threat to their activities. Other court rulings also declared strikes illegal and made striking workers pay damages because consumers and the public suffered during strikes. In August, the Supreme Court declared all strikes by government employees to be illegal; however, in practice this was not enforced.

There are seven Export Processing Zones (EPZs). Entry into the EPZs ordinarily is limited to employees, and such entry restrictions applied to union organizers. While workers in the EPZs have the right to organize and to bargain collectively, union activity was rare. In addition, unions did not vigorously pursue efforts to organize private-sector employees in the years since EPZs were established. Women constituted the majority of the work force in the EPZs. The International Confederation of Free Trade Unions reported that overtime was compulsory in the EPZs, that workers often were employed on temporary contracts with fictitious contractors rather than directly by the company, and that workers feared that complaints about substandard working conditions would result in their being fired.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or bonded labor, including by children; however, such practices remained widespread. The Bonded Labor System (Abolition) Act prohibits all bonded labor by adults and children. Offenders may be sentenced up to 3 years in prison, but prosecutions were rare. Enforcement of this statute, which was the responsibility of state and local governments, varied from state to state and generally was not effective due to inadequate resources and to societal acceptance of bonded or forced labor. On the occasions when inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently resulted in acquittals. NGOs estimated that there were 20 to 65 million bonded laborers in the country, including a large number of children (*see* Section 6.d.). According to a Government report, more than 85 percent of bonded laborers belonged to the scheduled castes and scheduled tribes.

Some press reports in 2002 indicated that Tamil Nadu alone had 25,800 bonded laborers, in response to which the state government began planning and implementing rehabilitation programs. Government officials worked to release other bonded laborers in many states. In West Bengal, organized traffic in illegal Bangladeshi immigrants was a source of bonded labor (*see* Section 5, Trafficking).

Female bondage, forced prostitution, and trafficking in women and children for the purpose of prostitution were widespread problems (*see* Section 5, Trafficking). According to press reports, prison officials used prisoners as domestic servants and sold female prisoners to brothels (*see* Section 1.c.). Devadasis, defined as prepubescent girls given to a Hindu deity or temple as "servants of God," were taken from their families and required to provide sexual services to priests and high caste Hindus. Reportedly many of the girls eventually were sold to urban brothels (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Government prohibits forced and bonded child labor; however, this prohibition was not effectively enforced, and forced child labor was a problem. The law prohibits the exploitation of children in the workplace; however, NHRC officials have admitted that implementation of existing child labor laws was inadequate, that administrators were not vigilant, that children were particularly vulnerable to exploitation, and that the Commission was focusing on the adequacy of existing legislation.

There is no overall minimum age for child labor. However, work by children under 14 years of age was barred completely in "hazardous industries," which included passenger goods and mail transport by railway. In occupations and processes in which child labor is permitted, work by children was permissible only for 6 hours between 8 a.m. and 7 p.m., with 1 day's rest weekly. In addition to industries that utilize forced or indentured child labor (*see* Section 6.c.), there was evidence that child labor was used in the following industries: Hand-knotted carpets; gemstone polishing; leather goods; and sporting goods.

The Government assisted working children through the National Child Labor Project, which was established in more than 3,700 schools. Government efforts to eliminate child labor affected only a small fraction of children in the workplace. A Supreme Court decision increased penalties for employers of children in hazardous industries to $430 (Rs 20,000) per child employed, and established a welfare fund for formerly employed children. The Government is required to find employment for an adult member of the child's family or pay $108 (Rs 5,000) to the family. According to the South Asian Coalition on Child Servitude, the authorities were pursuing some 6,000 cases against employers.

Estimates of the number of child laborers varied widely. The Government census of 1991 put the number of child workers at 11 million. The ILO estimated the number at 44 million. Most, if not all, of the 87 million children not in school did housework, worked on family farms, worked alongside their parents as paid agricultural laborers, worked as domestic servants, or employed.

The working conditions of domestic servants and children in the workplace often amounted to bonded labor. Children sent from their homes to work because their parents could not afford to feed them, or in order to pay off a debt incurred by a parent or relative, had no choice. There were no universally accepted figures for the number of bonded child laborers. However, in the carpet industry alone, human rights organizations estimated that there were as many as 300,000 children working, many of them under conditions that amount to bonded labor. Officials claimed that they were unable to stop this practice because the children were working with their parents' consent. In addition, there was a reasonable basis to believe that products were produced using forced or indentured child labor in the following industries: Brassware; hand-knotted wool carpets; explosive fireworks; footwear; hand-blown glass bangles; hand-made locks; hand-dipped matches; hand-broken quarried stones; hand-spun silk thread and hand-loomed silk cloth; hand-made bricks; and beedis (hand-rolled cigarettes). A number of these industries exposed children to particularly hazardous work conditions. In 2000, the Government issued a notification prohibiting government employees from hiring children as domestic help.

Those employers who failed to abide by the law were subject to penalties provided by the Bonded Labor System (Abolition) Act (such as fines and imprisonment) and also to disciplinary action at the workplace. For example, in June, the Lucknow Bench of the Allahabad High Court directed nine children working with the Great Roman Circus to be released and handed over to their parents. The petitioner had alleged that the circus owner was making the children work in violation of the law. At year's end, the case was still in pending.

In 2003, the Labor Commissioner estimated that there were 3,000 bonded child laborers in the Magadi silk twining factories. In January, HRW interviewed children in three states, Karnataka, Uttar Pradesh, and Tamil Nadu, and found that production of silk thread still depended on bonded children.

The enforcement of child labor laws was the responsibility of the state governments; however, enforcement was inadequate, especially in the informal sector in which most children were employed. The continuing prevalence of child labor was attributed to social acceptance of the practice, to the failure of the state and federal governments to make primary school education compulsory, ineffective state and federal government enforcement of existing laws, and economic hardships faced by families.

Employers in some industries took steps to combat child labor. The Carpet Export Promotion Council (CEPC), a quasi-governmental organization that received funding from the Ministry of Textiles, has a membership of 2,500 exporters who subscribed to a code of conduct barring them from purchasing hand-knotted carpets knownly produced with child labor. The CEPC conducted inspections to insure compliance and allowed members to use voluntarily a government-originated label to signify adherence to the code of conduct. However, the CEPC stated that even with its programs it was impossible to ensure that a carpet had been produced without child labor, given the difficulties of monitoring a decentralized and geographically dispersed industry. A private-sector research and consulting firm conducted the inspections, which covered only 10 percent of registered looms. The inspectors had difficulty locating unregistered looms. The Government also cooperated with UNICEF, United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Development Programme (UNDP), and the ILO in its efforts to eliminate child labor.

The Government participated in the ILO's International Program on the Elimination of Child Labor (IPEC). Approximately 145,000 children were removed from work and received education and stipends through IPEC programs since they began in the country in 1992. The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC also intervened in individual cases. Press reports said that a Madurai NGO had rescued 33 children who had been sold into slave labor during the year.

e. Acceptable Conditions of Work.—State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an 8-hour workday, a 49-hour workweek, and minimum working conditions. These standards were generally enforced and accepted in the modern industrial sector; however, they were not observed in less economically stable industries.

Minimum wages varied according to the state and to the sector of industry. Such wages provided only a minimal standard of living for a worker and were inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. The state governments set a separate minimum wage for agricultural workers but did not enforce it effectively. Some industries, such as the apparel and footwear industries, did not have a prescribed minimum wage in any of the states in which such industries operated.

State governments were responsible for enforcement of the Factories Act. However, the large number of industries covered by a small number of factory inspectors, and the inspectors' limited training and susceptibility to bribery resulted in lax enforcement.

The enforcement of safety and health standards also was poor.

Industrial accidents continued to occur frequently due to improper enforcement of existing laws. Chemical industries were the most prone to accidents. According to the Director General of Mines' safety rules, mining companies must seal the entrances to abandoned underground mines, and opencast mines were to be bulldozed and reforested. However, these rules seldom were obeyed. In June, flooding of a mine killed 17 miners in Andhra Pradesh.

Safety conditions generally tended to be better in the EPZs than in the manufacturing sector.

The law does not provide workers with the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment.

Legal foreign workers were protected under the law; however, illegal foreign workers had no protection.

MALDIVES

The Republic of Maldives has a parliamentary style of government with a strong executive. Political parties are not allowed to function. The President appoints the Cabinet, members of the judiciary, and 8 members of the 50-member Parliament. The President derives additional influence from his constitutional role as the "Supreme authority to propagate the tenets of Islam." The unicameral legislature, the People's Majlis, selects a single presidential nominee who is approved or rejected in a national referendum. President Maumoon Abdul Gayoom was approved for a sixth 5-year term in October 2003. The People's Majlis must approve all legislation and is empowered to enact legislation without presidential approval. In May, elections were held for the members of the People's Special Majlis, a constitutional body convoked by the President specifically to address constitutional reforms. During the year, the Special Majlis, consisting of the 50 members of the regular People's Majlis and 50 members elected or appointed specifically for this reform process, met several times. Civil law is subordinate to Shari'a (Islamic law), but civil law generally is applied in criminal and civil cases. The judiciary is subject to executive influence.

In September, police separated from the National Security Service (NSS), which formerly included the armed forces and police. The Maldives Police Service, now a civilian force reporting to the Ministry of Home Affairs, investigates crimes, collects intelligence, makes arrests, and enforces house arrest. Although the NSS is responsible for external security, it retained a role in internal security. The Director of the NSS reports to the Minister of Defense. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The country had a population of approximately 285,000, according to a mid-year estimate, and had a market-based economy. Tourism and fishing provided employment for more than one-half of the work force. Manufacturing, primarily apparel production, decreased. The economic growth rate was approximately 8.5 percent. Public sector wages did not keep pace with inflation. On December 26, a large-scale tsunami devastated significant parts of the country, killing 82 persons and injuring and displacing thousands of others.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The President's power to appoint some members of the Parliament and the absence of political parties constrained citizens' ability to change their government. Although the President issued orders designed to protect the rights of detainees, such as ensuring the right to counsel and videotaping all interrogations, there were reports of the abuse of pris-

oners. The Government continued to impose constraints on freedom of the press and on the formation of political parties; however, on June 9, the President proposed numerous constitutional reforms including the right to form political parties. The Government limited freedom of assembly and association. The law prohibits the practice of any religion other than Islam. Although the Government has undertaken a number of programs addressing women's issues, women faced a variety of legal and social disadvantages. The Government also restricted internationally recognized worker rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. In September 2003, security forces killed two inmates, Hassan Eemaan Naseem and Abdulla Amin, during the Maafushi prison uprising. Of the 12 other inmates injured and flown to Sri Lanka for treatment, 1 prisoner, Ali Aslaam, later died (*see* Section 1.c.). During the year, the Government continued the prosecution of 12 NSS officials involved in the killing of Hassan Eemaan Naseem and 6 others involved in the prison uprising that followed.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, according to human rights organizations and opposition groups, there were reports of beatings or other mistreatment of persons in police custody during the year. Following demonstrations in Malé on August 12 to 13 to demand the release of political prisoners and the implementation of democratic reforms, the Government declared on August 13 a state of emergency, which suspended constitutional rights for detainees. According to Amnesty International (AI), Mohamed Munavvar, the former Attorney General and member of the People's Majlis, was beaten while in custody in August. AI also noted that at least one prisoner, Ahmed Ibrahim Didi, needed urgent medical attention for a heart condition. The Government denied allegations of police brutality. There were no developments in the case of Ibrahim Moosa Luthfee, who was sentenced in 2002 to life imprisonment (*see* Section 2.a.) and who escaped in May 2003 from police custody after being taken to Sri Lanka for medical treatment as a result of alleged mistreatment and harsh conditions while he was in Maafushi Prison.

Following the September 2003 Maafushi Prison uprising and subsequent rioting, President Gayoom launched two separate inquiries into the incidents. The public reports made recommendations for improved supervision of prison operations and increased rehabilitation opportunities for inmates. The Government held an NSS captain at the prison responsible for the uprising, dismissed him from police service, and fired 12 NSS personnel for their roles in the prison disturbance. In June, the Criminal Court sentenced Mohamed Aswan, second in command of the Maafushi Prison security unit, to 6 months' banishment to a remote island for disobeying government orders in the confrontation at the prison (*see* Sections 1.d. and 2.d.). Government prosecution of other NSS officials continued during the year.

There were reports of public floggings (which are allowed under Shari'a as interpreted in the country). Several cases were related to charges of adultery. In general, punishments were limited to fines, compensatory payment, house arrest, imprisonment, or banishment to a remote atoll (*see* Section 1.d.). The Government generally permitted those who were banished to receive visits by family members.

There was one prison and one detention center in the country. During the year, some detainees were also kept at an NSS training facility. The country's main facility had a fluctuating population of approximately 300 inmates.

After the 2003 Maafushi Prison riot, the Government surveyed prison facilities in other countries to incorporate international standards and improvements in the reconstruction of the prison, and prison conditions improved during the year. Prisoners were allowed to work and were given the opportunity for regular exercise and recreation. Spouses were allowed privacy during visits with incarcerated partners. After the August 12 to 13 civil unrest, some detainees were held incommunicado in 8-foot by 8-foot cells at the Dhoonidoo Detention Facility, without access to reading material or exercise. Most other detainees held after the August unrest and state of emergency were held in solitary confinement in 6 by 9 foot cells at an NSS training facility. In October, some detainees were given access to legal counsel. Food and medical care at all facilities appeared to be adequate. Some detainees complained of mistreatment while being transferred to and held at detention facilities, and human rights organizations noted that some prisoners were kept in unsanitary con-

ditions. Women were held separately from men. Juveniles were held separately from adults. Pretrial detainees were not held separately from convicted prisoners. Persons arrested for drug use were sent to a drug rehabilitation center on a space available basis.

Some international human rights organizations were not permitted to visit prisons; however, the Government permitted prison visits by foreign diplomats. During the year, the International Committee of the Red Cross (ICRC) signed a formal agreement with the Government to monitor prisons but did not make any visits (*see* Section 4). AI visited the country in October, but did not issue a report during the year.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, persons were held arbitrarily after the August 12–13 unrest in Malé. Of the approximately 180 persons initially detained (*see* Section 2.b.), 78 persons were detained for several weeks without charge and without access to counsel or family members. While the Government allowed diplomats, family members, and members of the Maldives Human Rights Commission (MHRC) to visit some prisoners, the Government did not grant access to all prisoners. After 3 weeks, the Government permitted family visits for some of the prisoners.

Police initiated investigations based on response to written complaints from citizens, police officers, or government officials, or on suspicion of criminal activity. They were not required to obtain arrest warrants. The Attorney General referred cases to the appropriate court based on the results of police investigations. The authorities generally kept the details of a case secret until they were confident that the charges were likely to be upheld.

The 287-officer Maldives Police Service, which until September functioned as a subset of the NSS, investigated crimes, collected intelligence, made arrests, and enforced house arrest. Neither police corruption nor impunity posed problems during the year. The Government inquiries into the September 2003 Maafushi Prison uprising concluded that improved supervision of prison operations and increased rehabilitation opportunities for inmates were necessary, and these reforms were implemented.

A suspect may be detained in prison, remain free, or be placed under house arrest for 15 days during investigations, depending upon the charges. In most cases, the suspect is released if not brought to trial within 15 days, but the President may extend pretrial detention for an additional 30 days. Those who are released pending trial may not leave a specific atoll. Within 24 hours of an arrest, an individual must be told of the grounds for the arrest. An individual then can be held for 7 days. If no legal proceedings have been initiated within 7 days, the case is referred to an anonymous 3-member civilian commission, appointed by the President, that can authorize an additional 15 days of detention. After that time, if legal proceedings still have not been initiated, a judge must sanction the continued detention on a monthly basis. There is no provision for bail. Many of these provisions were suspended for the detainees held during the state of emergency enacted following the August 12 to 13 uprising.

The law provides for limited legal assistance to people accused of a criminal offense. In previous years, AI alleged that conversations between counsel and accused were conducted in the presence of police. Lawyers can be appointed in civil cases when the complainant and defendant are private individuals. Courts did not provide legal representation for the indigent. Although there is no right to legal counsel during police interrogation, detainees are granted access to family members. The Government may prohibit access to a telephone and nonfamily visits to those under house arrest. Following the state of emergency declared after the August 12 to 13 unrest, most of the detainees were held incommunicado for several weeks, but the Government later granted some of them family visits. The law does not provide safeguards against incommunicado detention (*see* Sections 1.c. and 1.e.).

On February 13, the Government arrested approximately eight persons for planning a demonstration by an unregistered political party. According to AI, the Maldivian Democratic Party (MDP), which the Government does not recognize, planned to sponsor a demonstration to protest the Government's failure to curb crime. According to international media reports, the Government arrested the planners of the demonstration for traffic and burglary offences; however, AI claimed the Government made the arrests because members of MDP held elections for the Governing Council of their organization (*see* Section 2.b.). Opposition leaders claimed that the MDP planned to give the President a letter asserting that the Constitution allows political parties. Legal action against the eight persons still detained or under house arrest was ongoing at year's end.

The law limits a citizen's right to freedom of expression in order to protect the "basic tenets of Islam." In 2002, according to AI and other sources, four individuals were arrested for distributing Islamist and antigovernment literature. By the end of 2003, three of the men were convicted to lengthy prison sentences for extremism and subversion, and the fourth man was released.

There were reports of internal exile of citizens during the year (*see* Section 2.d.). In 2002, according to the Government, more than 600 persons were temporarily banished to another island. In June, an NSS officer was banished to a remote island for 6 months for disobeying government orders in the September 2003 Maafushi Prison disturbances (*see* Section 1.c.).

e. Denial of Fair Public Trial.—The Constitution does not provide for an independent judiciary, and the judiciary is subject to executive influence. In addition to his authority to review High Court decisions, the President influences the judiciary through his power to appoint and dismiss judges, all of whom serve at his pleasure and are not subject to confirmation by the People's Majlis. The President also may grant pardons and amnesties.

There are three courts: One for civil matters; one for criminal cases; and one for family and juvenile cases. There is also a High Court in Malé, which is independent of the Justice Ministry and which handles a wide range of cases, including politically sensitive ones. The High Court also acts as court of appeals. The President can appoint a five-member advisory council to review High Court rulings. The President also has authority to affirm judgments of the High Court, to order a second hearing, or to overturn the Court's decision.

Most trials are public and are conducted by judges and magistrates trained in Islamic, civil, and criminal law. There are no jury trials.

The Constitution provides that an accused person be presumed innocent until proven guilty and that an accused person has the right to defend himself "in accordance with Shari'a." The judiciary generally enforced these rights. During a trial, the accused also may call witnesses, and be assisted by a lawyer (*see* Section 1.d.). Judges question the concerned parties and attempt to establish the facts of a case.

Civil law is subordinate to Shari'a, which is applied in situations not covered by civil law, as well as in certain matters such as divorce and adultery. Courts adjudicating matrimonial and criminal cases generally do not allow legal counsel in court because, according to a local interpretation of Shari'a, all answers and submissions should come directly from the parties involved. However, the High Court allowed legal counsel in all cases, including those in which the right to counsel was denied in lower court. Those convicted had the right to appeal. Under the country's Islamic practice, the testimony of two women equals that of one man in matters involving Shari'a, such as adultery, finance, and inheritance. In other cases, the testimony of men and women are equivalent (*see* Section 5).

There were no confirmed reports of political prisoners; however, AI claimed the Government held at least six political prisoners. According to AI, in 2002, Ibrahim Moosa Luthfee, Mohamed Zaki, Ahmed Ibrahim Didi, and Fathimath Nisreen were arrested for circulating an Internet e-mail magazine, Sandhaanu, critical of the Government. The four were held in solitary confinement until their trial in 2002. Luthfee, Zaki, and Didi were sentenced to life imprisonment for spreading false news and calling for the overthrow of the Government, among other charges. AI also considered Nisreen, the one woman arrested, a political prisoner. She was sentenced to 10 years' imprisonment for charges including calling for the overthrow of the Government and assisting Sandhaanu originators. In May 2003, Luthfee escaped from NSS custody while receiving medical care in Sri Lanka, and was still at large. The Government maintained that these prisoners were convicted of crimes not related to politics.

Opposition groups claimed that the majority of persons detained (and not charged) after the August 12–13 unrest were being held because of their political views (*see* Section 1.c.). According to the Attorney General, at year's end, one person remained in detention.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits security officials from opening or reading wireless messages, letters, telegrams, or monitoring telephone conversations, "except as expressly provided by law"; however, the Government restricted privacy rights on occasion. After the August 12 to 13 unrest, the Government's telecommunications authority blocked mobile telephone text messages and Internet access for regular Internet users for 3 days (*see* section 2.a.). The NSS may open the mail of private citizens and monitor telephone conversations if authorized in the course of a criminal investigation.

Although the Constitution provides that residential premises and dwellings should be inviolable, there is no legal requirement for search or arrest warrants.

The Attorney General or a commanding officer of the police must approve the search of private residences.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law does not provide for freedom of speech or of the press, and the Government generally did not respect such rights in practice. The Penal Code prohibits inciting citizens against the Government. The law prohibits public statements that are contrary to government policy and Islam, threaten the public order, or are libelous. However, an amendment to the Penal Code decriminalizes "true account(s)" by journalists of governmental actions. Journalists and publishers practiced self-censorship.

Regulations that make publications responsible for the content of the material they publish remain in effect, but no legal actions against publications were initiated during the year.

The Press Council is composed of lawyers, private and government media representatives, and other government officials. The mandate of the council is to review charges of journalistic misconduct (advising the Ministry of Information, Arts, and Culture on measures to be taken against reporters, when appropriate) and promotes professional standards within the media by recommending reforms and making suggestions for improvement. The Council did not take notable action during the year.

Almost 200 newspapers and periodicals were registered with the Government, but only 3 dailies, each owned by a current or former government minister, were published on a regular basis: Aafathis, Haveeru and Miadhu. In March 2003, the Government announced the withdrawal of 22 publication licenses for irregular publication. No regularly published newspaper or periodical was affected by this action.

The Government or its sympathizers owned and operated the only television and radio stations. It did not interfere with foreign broadcasts or with the sale of satellite receivers. Reports drawn from foreign newscasts were aired on the government television station.

In general, after an easing of restrictions in the late 1990s, the Government has taken a more stringent attitude toward freedom of the media. For example, in 2002, three men and a woman were arrested for circulating an Internet e-mail magazine critical of the Government (*see* Section 1.e.).

There were no legal prohibitions on the import of foreign publications except for those containing pornography or material otherwise deemed objectionable to Islamic values.

The Government generally did not interfere with the use of the Internet; however, it blocked sites deemed pornographic and blocked all Internet access for 3 days following the August 12 to 13 agitation (*see* Section 1.f.).

The law prohibits public statements contrary to government policy and the Government's interpretation of Islam. Therefore, although there were no reported cases of transgressions of these laws in the academic arena, the laws constrain academic freedom to the extent that academics practiced self-censorship.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government imposed limits on this right in practice. Informal restrictions on public assembly were relaxed following the President's June 9 speech. Numerous impromptu "town hall"-type meetings occurred following the speech, in which different proposed reforms were debated.

On February 13, the Government arrested approximately eight persons for planning a demonstration of an unregistered political party (*see* Section 1.d.).

On August 12 to 13, approximately 5,000 persons demonstrated outside the NSS headquarters in Malé to demand the release of political prisoners and call for democratic reform. After the crowd allegedly became unruly, the NSS used tear gas to disperse the demonstrators. The Government arrested approximately 180 persons, including 12 members of the Special Majlis, 2 of whom are also members of the People's Majlis. On August 13, the Government declared a state of emergency, which suspended constitutional rights for detainees and imposed a curfew (*see* Section 1.c.). On October 10, the Government lifted the state of emergency but continued to detain a number of suspects, including the 12 Special Majlis M.P.s. By November, all but 25 of the detainees had either been released or transferred to house arrest. On December 5, the Government charged four Special Majlis Members with sedition in connection with the events of August 12 to 13. By December 14, all but one of the Special Majlis M.P.s had been released from house arrest. On December 31, the Government dropped the charges against the four M.P.s and released the last M.P. from house arrest.

In September 2003, the NSS reportedly used tear gas to quell demonstrations that damaged several government buildings in Malé, including the election office (*see*

Section 1.c.). There were reports that several civilians sustained minor injuries as a result of the police action.

The Constitution provides for freedom of association; however, the Government imposed limits on freedom of association in practice. The Government registers clubs and other private associations if they do not contravene Islamic or civil law. While not prohibited by law, the President officially discouraged political parties on the grounds that they were inappropriate to the homogenous nature of society; however, in a speech on June 9, the President announced proposals for constitutional reform allowing for the existence of political parties. By year's end, no reforms were enacted.

Although not prohibited, there were no independent local human rights groups. In December 2003, the Government formed the nine-member MHRC, and the Commission subsequently met more than 50 times. During the year, the MHRC issued public reports on the 2003 Maafushi prison uprising (*see* Section 1.c.).

c. Freedom of Religion.—The Constitution does not provide for freedom of religion, and freedom of religion was restricted significantly. The Constitution designates the Sunni branch of Islam as the official state religion, and the Government interpreted this provision to impose a requirement that citizens be Muslims. The law prohibits the practice of any religion other than Islam. The Government observes Shari'a. Civil law is subordinate to Shari'a, which is applied in situations not covered by civil law as well as in certain acts such as divorce and adultery. Foreign residents were allowed to practice their religion if they did so privately and did not encourage citizens to participate. President Gayoom repeatedly stated that no other religion should be allowed in the country, and the Home Affairs Ministry announced special programs to safeguard and strengthen religious unity. The President, the members of the People's Majlis, and cabinet members must be Muslims.

There were no places of worship for adherents of other religions. The Government prohibited the import of icons and religious statues, but it generally permitted the import of individual religious literature, such as Bibles, for personal use. It also prohibited non-Muslim clergy and missionaries from proselytizing and conducting public worship services. Conversion of a Muslim to another faith is a violation of the Government's interpretation of Shari'a and may result in punishment, including the loss of the convert's citizenship; however, there were no known cases of loss of citizenship from conversion to a non-Islamic religion. In the past, would-be converts have been detained and counseled regarding their conversion from Islam. Unlike previous years, there were no reports of foreigners detained for proselytizing.

Islamic instruction is a mandatory part of the school curriculum, and the Government funded the salaries of religious instructors. The Government has established a Supreme Council of Islamic Affairs to provide guidance on religious matters. The Government also set standards for individuals who conduct Friday services at mosques.

Under the country's Islamic practice, certain legal provisions discriminate against women (*see* Sections 1.e., 3, and 5).

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice. Citizens are free to travel at home and abroad, to emigrate, and to return. Foreign workers often were housed at their worksites. Unlike in previous years, their ability to travel freely was not restricted.

The law allows for forced exile, and the Government used forced exile in practice. In June, the Criminal Court sentenced Mohamed Aswan, second in command of the Maafushi Prison security unit, to 6 months' banishment to a remote island for disobeying government orders in the September 2003 confrontation at the prison (*see* Sections 1.d. and 2.d.).

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees or asylees. The Government has cooperated in the past with the office of the U.N. High Commissioner for Refugees; however, asylum issues did not arise during the year. The Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government did not routinely grant refugee status or asylum.

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

Under the Constitution, the citizens' ability to change their government is limited and the strong executive exerted significant influence over both the legislature and the judiciary. Under the Constitution, the People's Majlis chooses a single presidential nominee, who must be a Sunni Muslim male, from a list of self-announced candidates for the nomination. Would-be nominees for president are not permitted to campaign for the nomination. The nominee is then confirmed or rejected by secret ballot in a nationwide referendum. From a field of four candidates, President Gayoom was nominated unanimously by the People's Majlis and was confirmed by referendum in October 2003 for a sixth 5-year term. Observers from the South Asian Association for Regional Cooperation (SAARC) said the referendum was conducted in a free and fair manner.

By both law and custom, the Office of the President is the most powerful political institution in the country. The Constitution gives Shari'a preeminence over civil law and designates the President as the "supreme authority to propagate the tenets" of Islam.

Unlike in previous years, the President was not the Commander in Chief of the armed forces, the Minister of Defense and National Security, and the Minister of Finance and Treasury. The President remained the Governor of the Maldivian Monetary Authority. The President's authority to appoint 8 of the 50 members of the People's Majlis provided the President strong political leverage. The elected members of the People's Majlis, who must be Muslims, serve 5-year terms. All citizens over 21 years of age may vote. Individuals or groups were free to approach members of the People's Majlis with grievances or opinions on proposed legislation, and any member may introduce legislation. There were no political parties, which were officially discouraged (*see* Section 2.b.).

Elections to the People's Majlis were held in 1999. According to SAARC observers, the 1999 elections were "free and fair in accordance with the relevant laws and regulations of the Republic of the Maldives." A by-election with 38 percent participation was held in April 2002 following the expulsion of M.P. Mohammed Nasheed from the People's Majlis upon his conviction for petty theft. According to observers, the election was generally free and fair. Elections for the People's Majlis, originally scheduled for December 31, were postponed following the December 26 tsunami. Critics of the Government claimed that some candidates, who remained under house arrest, were unable to file applications to contest the elections by the November 15 deadline; however, at least one candidate who was in detention at the filing deadline was able to file an application and conduct a campaign.

For the past several years, the People's Majlis has held a question period during which members may query government ministers about public policy. Debate on the floor since the question period was instituted has become increasingly open. In March and April, there was significant debate about legislation regarding the MHRC (*see* Section 4).

On May 28, elections were held for the members of the People's Special Majlis, a constitutional body convened by the President to address constitutional reforms. The Special Majlis, consisting of the 50 members of the regular People's Majlis and 50 members elected or appointed specifically for this reform process, met several times during the year, albeit without the presence of members held in detention. The Special Majlis was temporarily suspended in July after some M.P.s walked out in protest at procedures adopted to elect the Speaker. The sessions resumed on October 12, and a Speaker was elected by open ballot on October 14.

Although research about corruption in the executive and legislative branches was limited, some sources cited anecdotal reports that the power of the President and his family directed most decisions, including economic activities and political reform. There is an anti-corruption board that investigates allegations of corruption in the Government.

There are no laws that provided for access to government information.

There were 5 women in the 50-member People's Majlis and 6 in the 50-member Special Majlis. There were two women in the Cabinet. Women are not eligible to become president but may hold other government posts. In 2002, a woman was named High Commissioner to Sri Lanka, the first woman to hold the office.

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

Although not prohibited, no independent local human rights groups existed in the country.

Some international human rights groups were not allowed in the country; however, on September 4, the President told international media that AI could enter

the country to assess prison conditions. AI visited the country in October but did not issue a report at year's end. In October, representatives from the National Democratic Institute for International Affairs (NDI) visited the country at the invitation of the Government. In December, the NDI mission made a number of recommendations to the Government; however, at year's end no action was taken on the recommendations.

In December 2003, the President created the MHRC (*see* Sections 2.d and 3). During the year, the People's Majlis did not pass legislation to define the Commission's mandate, composition, or independence; however, after visiting some of the detainees held at two detention centers, the MHRC recommended to the Government that it improve prison and detention center conditions, including the provision of access to medical care at all times and the assignment of female guards to guard female detainees. During the year, the ICRC signed an agreement with the Government to monitor prisons, but did not conduct prison visits during the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for the equality of all citizens before the law, but there is no specific provision to prohibit discrimination based on race, sex, religion, disability, or social status. Women traditionally have been disadvantaged, particularly in terms of the application of Shari'a, in matters such as divorce, education, inheritance, and testimony in legal proceedings. There were no reports of official or societal discrimination against persons with HIV/AIDS.

Women.—Both non-governmental and government sources agreed that domestic violence and other forms of violence against women were not widespread; however, there were no firm data on the extent of violence against women. Police officials reported that they received few complaints of assaults against women. Rape and other violent crimes against women were extremely rare. Under Shari'a, the penalty for rape is flogging, imprisonment for up to 5 years, or banishment.

Although women traditionally have played a subordinate role in society, they participated in public life in growing numbers. Women constituted 39 percent of government employees. The literacy rate for women was 98 percent. A Gender Equality Council advised the Government on policies to help strengthen the role of women. The minimum age of marriage for women is 18 years, but earlier marriage is common.

Under Islamic practice, husbands may divorce their wives more easily than vice versa, absent any mutual agreement to divorce. Shari'a also governs intestate inheritance, granting male heirs twice the share of female heirs. A woman's testimony is equal to one-half of that of a man in matters involving adultery, finance, and inheritance (*see* Section 1.e.). Women who worked for wages received pay equal to that of men in the same positions.

Children.—Education is not compulsory, but there is universal access to free primary education. The percentage of school-age children in school in 2002 was: (grades 1 to 5) 99 percent; (grades 6 to 7) 95 percent; and (grades 8 to 10) 51 percent. Of the students enrolled, 49 percent were female, and 51 percent were male. In many instances, education for girls was curtailed after the seventh grade, largely because parents did not allow girls to leave their home island for an island having a secondary school.

Children's rights are incorporated into law, which specifically protects them from both physical and psychological abuse, including at the hands of teachers or parents. The Ministry of Gender, Family Development and Social Security has the authority to enforce this law and received strong popular support for its efforts. Although unable to provide an exact number, the Ministry noted that there continued to be reports of child abuse during the year, including sexual abuse. Penalties for the sexual abuse of children range from up to 3 years' imprisonment to banishment. It was not known if there were any prosecutions for child abuse or child sexual abuse during the year.

Government policy provided for equal access to educational and health programs for both male and female children.

Child labor remained a problem, primarily in agriculture, fishing, and small commercial activities, including in family enterprises. There were no reports of children being employed in the industrial sector (*see* Section 6.d.).

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons With Disabilities.—No law specifically addresses the rights of persons with physical or mental disabilities. A 2003 government census cited 4,728 persons with disabilities; however, local NGOS claimed there were thousands more with disabilities, due to high levels of malnutrition during pregnancy. The Government has

established programs and provided services for persons with disabilities, including special educational programs for hearing and visually disabled persons. Students with physical disabilities were integrated into mainstream educational programs. Families usually cared for persons with disabilities. When family care was unavailable, persons with disabilities lived in the Ministry of Gender, Family Development and Social Security-run Institute for Needy People, which also assisted elderly persons. When requested, the Government provided free medication for all persons with mental disabilities in the islands, but follow-up care was infrequent.

Section 6. Worker Rights

a. The Right of Association.—While the law does not expressly prohibit unions, it recognizes neither a worker's right to form or join them nor the right to strike. Associations (such as industry associations and clubs) are allowed. In May 2003, the Government enacted a new law to strengthen the legal regime governing voluntary, not-for-profit associations. Small groups of similarly employed workers with mutual interests have formed associations, some of which include employers as well as employees. These associations have not acted as trade unions.

b. The Right to Organize and Bargain Collectively.—The law does not recognize workers' rights to organize and bargain collectively. Wages in the private sector are set by contract between employers and employees and are usually based on the rates for similar work in the public sector.

There were no reports of efforts to form unions or of strikes during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law does not prohibit forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law bars children less than 14 years of age from paid or hazardous work. Government introduced guidelines prohibit employment of children under 18 by the Government and in hazardous jobs such as construction, carpentry, welding, and driving.

According to the International Confederation of Free Trade Unions, child labor remained a problem, primarily in agriculture, fishing, and small commercial activities, including in family enterprises. There were no reports of children being employed in the industrial sector. The working hours of children 14 years or older were not limited specifically by statute. A Unit for Children's Rights in the Ministry of Gender, Family Development and Social Security is responsible for monitoring compliance with the child labor regulations, but it is not charged with their enforcement. The Ministry of Employment and Labor's Employment Relations and Compliance Unit deals with child labor problems.

e. Acceptable Conditions of Work.—There was no national minimum wage for the private sector, although the Government has established wage floors for government employment. These wage floors provided a decent standard of living for a worker and family. Given the severe shortage of labor, employers offered competitive pay and conditions to attract skilled workers.

There are no statutory provisions for hours of work, but the regulations require that a work contract specify the normal work and overtime hours on a weekly or monthly basis. The public sector provides a 7-hour day and a 5-day workweek.

There are no national laws governing health and safety conditions. There are regulatory requirements in certain industries such as construction and transport that employers provide a safe working environment and ensure the observance of safety measures. It was unclear whether workers could remove themselves from unsafe working conditions without risking the loss of their jobs. The Ministry of Employment and Labor's Employment Relations and Compliance Unit resolves wage and labor disputes, visits worksites, and enforces labor regulations.

NEPAL

Nepal is a constitutional monarchy with a parliamentary form of government. A Maoist insurgency, punctuated by ceasefires in 2001 and 2003, has been ongoing since 1996. King Gyanendra assumed the throne in 2001. The democratically elected parliament consists of the House of Representatives (lower house) and the National Assembly (upper house). International observers considered the 1999 parliamentary elections to be generally free and fair. The then-Prime Minister dissolved the parliament in 2002, and the term of parliament subsequently expired. The ongoing in-

surgency subsequently prevented new elections. On June 2, the King reinstated Sher Bahadur Deuba as Prime Minister. The Constitution provides for an independent judiciary; however, the courts often were inefficient and susceptible to political pressure and corruption.

The Royal Nepalese Army (RNA) continued to exercise responsibility for security in the country under an operational structure referred to as the "unified command," which included elements of the Nepal Police and the Armed Police Force (APF). Local Chief District Officers (CDOs), civil servants in the Home Ministry, have wide discretion in maintaining law and order. While the King, as Army Supreme Commander, maintained ultimate control of the Royal Nepalese Army, there is no evidence that he exercised direct operational control of the Army. Civilian authorities maintained effective control of the National Police and Armed Police Force. Members of the security forces committed numerous, serious human rights abuses.

The country is extremely poor, with an annual per capita GDP of approximately $276 (20,474 Nrs) and a 3.7 percent growth rate during the year. Subsistence agriculture supported more than 80 percent of the country's 24.1 million population. Wages and benefits did not keep pace with inflation. The mixed economy suffered due to slow growth in the world economy and the insurgency, which resulted in a decline in revenues from tourism and from exports of textiles and carpets.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. The citizens' right to change the Government was provided for by the Constitution; however, the ongoing insurgency has prevented the holding of elections. Since the dismissal of the elected government in 2002, the King has appointed three interim governments, but parliament has not been reestablished. The security forces used arbitrary and unlawful lethal force and continued to abuse detainees, sometimes using torture as punishment or to extract confessions. The disappearance of persons in custody was a serious problem. Prison conditions remained poor. Impunity remained a problem, although the military investigated some claims of abuses and found several soldiers guilty under court martial. The National Human Rights Commission (NHRC) investigated allegations of human rights violations and, while the Government has begun to pay compensation to some victims, recommended disciplinary action against police seldom occurred. Arbitrary arrest and lengthy pretrial detention were problems. Judicial susceptibility to political pressure, fear of retribution, corruption, and long delays in trial procedures remained problems. Media criticism of the Government was allowed, so long as it did not aid terrorism or directly criticize the King. The Government restricted public celebrations by the Tibetan community. The Constitution imposes restrictions on religious proselytizing. Women, persons with disabilities, and lower castes suffered from widespread discrimination. Violence against women, trafficking in women and girls for prostitution, and child labor also remained serious problems. Worker rights continued to be restricted.

During the year, Maoists continued their campaign of torturing, killing, bombing, forcibly conscripting children, extorting, forcing closures of schools and businesses, and committing other serious and gross human rights abuses. Maoist impunity remained a significant problem. During the year, an estimated 2,380 persons were killed in insurgency-related violence, including 156 members of the national police; 240 members of the Royal Nepalese Army; 53 members of the Armed Police Force; 1,457 Maoists; and 474 civilians, including 12 government officials. Maoist actions limited press freedom and the right of assembly, negatively impacted religious communities, prevented free movement, limited citizens' ability to change their government, and prevented hundreds of thousands of children from receiving education. Since the beginning of the insurgency, the Maoists have not credibly investigated any human rights abuses committed by their forces, despite their claims to respect and uphold international conventions on human rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, the security forces continued to commit arbitrary and unlawful killings. Some observers found the number of prisoners taken under battlefield conditions to be low and concluded that many Maoist fighters apparently were killed rather than taken prisoner. According to statistics from the press and human rights groups, security forces killed 1,354 suspected Maoists during the year. Observers argued that security forces frequently broke their own rules of engagement by shooting at unarmed fleeing suspects. For example, on May 16, Rajendra Paneru was shot and killed while trying to escape security forces in Gorkha. On March 17, security personnel shot and killed mentally handi-

capped Ganesh Syangtang of Hetauda when he attempted to flee. The District CDO agreed to investigate the latter case, but there were no developments at year's end.

RNA soldiers were responsible for a number of killings, including deaths in custody in which torture was credibly alleged (*see* on 1.c.). During the year, the RNA's human rights investigative cell conducted 9 new investigations. In most cases of arbitrary or unlawful killings, the security forces claimed that the victims were Maoists.

On January 11, members of a joint RNA/APF patrol in Manpur Tapara, Bardia District, killed father and son Bhoj Bahadur Karki and Top Bahadur Karki. A subsequent investigation by the RNA determined that a soldier of the Joint Security Patrolling Group had acted unlawfully. The soldier was sentenced to 7 years' imprisonment under general court martial. An Armed Police Force officer also was demoted in rank as a result of the incident.

During a raid in Ward 4 Handikhola VDC in Makwanpur District on February 5, 14 Maoists and 2 civilians (a 31-year-old man and an 80-year-old woman) were killed. Locals accused the RNA soldiers of capturing and then executing two of the Maoists, and of using excessive force against the local population. An investigation was ongoing at year's end.

On February 12 and 13, in Pokharichauri, Kavre District, RNA soldiers killed 17-year-old Subhadra Chaulagain and 18-year-old Reena Rasaili while they reportedly were attempting to flee custody. It was alleged that the girls, accused by the RNA of being Maoists, were captured, beaten, and raped. On February 17, RNA soldiers took Maina Sunuwar from her home in Kavrethok, Kavre District, and presumably killed her. An RNA investigation into these cases was ongoing at year's end.

According to Human Rights Watch, in mid-February in Raghunathpur of Rautahat District, Kishori Patel Kurmi and Suresh Raut Patel were summarily executed after being wounded by a group of soldiers who, according to locals, were dressed as Maoists. Villagers protested the killings in the district headquarters and compensation was promised. No action was taken by year's end.

The RNA reopened the investigation into the 2003 killing of at least 19 Maoists in the Ramechhap District. In March, an RNA commander was charged with two counts of "failing to protect detainees leading to violation of their human rights, and misreporting to army headquarters." While the preliminary RNA report had denied any extrajudicial killings, the latest RNA report revealed that "some of the unarmed rebels were killed after their capture even as a few of them were killed in separate encounters at different areas in Ramechhap district." On March 11, the RNA announced that the RNA major in command of the company in question would face a court-martial.

The RNA was investigating the October 2003 death of Govinda Poudel, a Maoist suspect who died in the hospital after allegedly being tortured in custody.

During the year, an RNA court martial prosecuted soldiers accused of involvement in the death of Maya Devi Tamang in December 2003. One soldier was sentenced to 18 months imprisonment and discharged from service; one soldier was given an official warning; one soldier was demoted; and the officer in charge was suspended from the opportunity for promotion for 13 months. The RNA has recommended to the Government that the family of the victim be compensated.

A corporal and a warrant officer were discharged from the army and sentenced to two years in jail for the 2003 killings of Hari Prasad Bhattarai, Durga Koirala, and Dakmani Koirala. The RNA also discharged the officer in charge of the unit from service.

There were no developments in the 2003 killings of Raj Dev Yadav and Brahma Dev Yadav.

In 2003, the Government agreed to provide compensation to a number of victims' families for wrongful killings. For example, the Government paid Devi Lal Poudel's parents approximately $6,700 (500,000 Nrs) as compensation for the police killing in April 2003 of Poudel, a student participating in a violent protest in Rupandehi District against petroleum price hikes.

In September 2003, a judge in Kathmandu District Court ordered the Government to pay approximately $1,340 (100,000 Nrs) to the family of Ganesh Kukmar Rai. Despite the court order, the Government had not paid the compensation at year's end.

In October 2003, soldiers opened fire at a secondary school in Mudhbara, Doti District, where armed Maoists were forcing students and teachers to attend a cultural program. Soldiers killed one Maoist and four students. An RNA investigation exonerated the soldiers involved of wrongdoing, but recommended that the victims' families be paid $2,680 (200,000 Nrs) each. No action had been taken at year's end.

In November 2003, a taxi accidentally hit an RNA school bus in Kathmandu. A soldier on the bus, thinking the bus was under attack, shot and killed Rajiv Shrestha, the taxi driver. Following an investigation and court martial, the soldier

was convicted of using excessive force and charged with 4 months' imprisonment and discharged from service. The RNA court of inquiry recommended to the Home Ministry that compensation be provided to Shrestha's family. The Government paid $2,680 (200,000 Nrs) in compensation.

In December 2003, police shot and killed Suresh Baral in Pokhara, Kaski District, as he approached a checkpoint on motorcycle at night. The Government paid Baral's family $1,340 (100,000 Nrs) as compensation for his death.

There were no developments in the 2002 killings of Ajabwal Yadav, Sakur Manihar, Krishna Sen, or Ram Hari Khadga.

There were numerous killings by unknown actors. For example, Communist Party of Nepal—United Marxist Leninist Party parliamentarian Hem Narayan Yadav from Siraha was killed on February 2 in Danusha District. Yadav's body was found covered by a Maoist flag with Maoist materials nearby. Several investigations into Yadav's death pointed to the RNA, although the RNA denied involvement.

Maoist rebels clashed with security forces repeatedly during the year and engaged in targeted killing of individual members of the security forces, government officials, and civilians. For example, on July 30, the rebels abducted, tortured, and killed an unarmed RNA soldier in Kaski District. On August 4, rebels shot and killed a police officer in Jhapa District after abducting him several days earlier. On August 6, the rebels abducted and then killed an RNA soldier in Dhankuta District. On August 9, the Maoists also killed two security personnel after abducting them in Kapilbastu District.

The Maoists continued to kill and torture politicians, civilians, and journalists. The insurgents killed 409 civilians during the year. For example, on January 15, Maoists killed the Mayor of Birgunj (and journalist) Gopal Giri; on July 2, Maoists killed the Mayor of Pokhara, Harka Bahadur Gurung; and on July 12, they killed the Mayor of Dhangadhi Municipality, Dhan Bahadur Bam. Similarly, on August 3, the Maoists abducted the former mayor of Bardiya District from his relative's funeral procession, cut off his limbs and head, and threw his body on the burning pyre.

On July 19, the Maoists killed a wheelchair-bound man in Morang district. On July 31, the Maoists beat to death a teacher in the mid-western district of Dailekh. The Maoists abducted Til Bahadur Limbu on August 12 and killed him on August 18. Limbu was a Nepal Red Cross volunteer and had previously served as the Mahamai Village Development Committee Chairman.

On February 15, Maoists killed Ganesh Chiluwal, Head of the Maoist Victims Association, a local NGO representing survivors of Maoist terror, at the offices of his association in Kathmandu.

On August 11, the Maoists killed Dekendra Raj Thapa, a reporter for the state-owned Radio Nepal and also an advisor to the Human Rights and Peace Society (HURPES), a local human rights nongovernmental organization (NGO), in the mid-western district of Dailekh. Maoists killed him after detaining him for more than a month for allegedly spying for the security forces.

On September 1, a mob enraged by the death of 12 citizen workers in Iraq at the hands of Iraqi militants attacked manpower agencies, mosques, Middle Eastern airline companies, and press houses in several cities in the country (*see* Section 2.c.). Significant property damage occurred and seven persons lost their lives in the violence. In response to the mob actions, the Government imposed a curfew for several days. Most observers were critical of the slow speed with which the Government responded to the violence. Police arrested more than 50 persons for participating in the riots.

b. Disappearance.—The disappearance of persons while in the custody of security forces was a significant problem. The 2002 Terrorist and Destructive Activities Act (TADA), which codified some aspects of the Royal Ordinance declared during the state of emergency in 2001, authorized extended preventative detention. In some cases, individuals disappeared, and their whereabouts remained unknown until much later when the Government acknowledged the individuals were detained under the TADA. According to the Informal Sector Service Center (INSEC), a local human rights NGO, since the beginning of the insurgency in 1996, there have been 17,963 cases of disappearances, 1,354 by the state and 16,609 by the insurgents. There have been no prosecutions of government officials or Maoists for their involvement in disappearances. Since the 1997 establishment of the NHRC, the Commission has registered 1,340 cases of disappearance. On July 1, the Government formed a five-member committee (including a Joint Secretary at the Home Ministry, a Deputy Inspector General of Police, a Deputy Inspector General of the Armed Police Force, and a Deputy Chief Officer of the National Investigation Department) to investigate disappearance claims. On August 11, the committee announced it had

looked into 36 disappearance cases and had identified the location of 24 of the 36 missing. In response to public complaints that the panel's efforts were insufficient, the Government extended the tenure of the committee. By the end of the year, the committee had identified the location of 320 missing individuals. The Government subsequently extended the tenure of the committee into 2005.

On September 17, the Government opened a detention facility at Sundarijal in the Kathmandu Valley to house detained suspected Maoists while they were being interrogated. Family members, lawyers, and human rights groups were given access to the facility, but access was limited and in some instances, denied.

According to the NHRC, more than 1,200 persons remained disappeared since the beginning of the insurgency. INSEC reports that the whereabouts of 177 persons in government custody since the beginning of the insurgency remained unknown at year's end. On May 9, security forces in Balaju, Kathmandu, arrested Hari Krishna Adhikari, the headmaster of Puspa Lal Memorial Primary School in Nuwakot; his whereabouts remained unknown.

Som Bahadur Ghale Tamang, General Secretary of the Tamang Indigenous People's Organization, and Bishnu Prasad Gyawali, who had been arrested in 2002, were subsequently released later that year.

The disappearance of persons at the hands of the Maoists was a significant problem. INSEC reported that Maoists abducted 665 persons during the year and that 384 civilians remained missing since the beginning of the insurgency. At year's end, 12 members of the national police, 13 members of the APF, and 6 soldiers remained missing after being abducted by Maoists. Police statistics indicated that Maoists have abducted 420 policemen since 1996; 382 were later released, 29 were killed and 12 remained missing.

During the year, Maoists significantly expanded a campaign of abducting civilians, primarily students and teachers, for indoctrination programs and forced paramilitary training. In January and February, approximately 700 children were abducted. Additionally, Maoist-enforced education closures in the western part of the country affected more than 700,000 students and 51,000 employees from 5,000 private and public schools, according to the Western Regional Coordination Committee of the Private and Boarding Schools Organization Nepal.

In December, Maoists kidnapped Jhapa district court judge Tanka Bahadur Moktan, who was subsequently released after 3 days.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture, and the Civil Code prohibits acts such as beating and mutilation; however, security forces at times used torture and beatings to punish suspects or to extract confessions. The Center for the Victims of Torture (CVICT) reported that blindfolding and beating soles of feet were the most common methods. Detainees were often held incommunicado and unable to contact family members, doctors, or lawyers (*see* Section 1.d.). The Government sometimes failed to conduct thorough and independent investigations of reports of security force brutality and generally did not take significant disciplinary action against those involved.

Members of the security forces often were unwilling to investigate and to discipline fellow officers, and persons were afraid to bring cases against police or army for fear of reprisals. The Government provided human rights education for police, and soldiers received human rights education as part of their regular training.

The Constitution and the Torture Compensation Act provide for compensation for victims of torture, and during the year, three victims were awarded compensation. According to CVICT, 5 persons filed for compensation under the act during the year, compared with 57 claims in 2003 and 7 claims during 2002. CVICT attributed the rise in claims in 2003 to victims' greater willingness to report such incidents during the ceasefire.

A human rights group reported that on June 18 security forces tortured Subid Guragain, Editor of Rajdhani Daily and Vice President of Nepal Journalist Union Sunsari Branch, in front of the Inurwa District Police Office. Thereafter, he was brought to the unified command barracks in Inurwa and was abused and beaten by soldiers. After a rally organized by the Federation of Nepalese Journalists, the RNA publicly apologized for the mistreatment.

In April, six police officers physically abused two Tibetan refugee girls in Lukla (the girls were traveling with 53 other refugees). The girls were beaten with a stick, told to open their clothes, and groped. The refugees were also robbed of $1,300 (96,200 Nrs) and other valuables. According to an APF investigation, civilian police carried out the abuse, and APF informed civilian police authorities. No further information on this case was available by year's end.

On November 10, six RNA soldiers allegedly raped a 16-year-old girl in Sunsari District, and reportedly threatened her life if she reported the crime. The RNA

turned the six soldiers over to the civilian district court in Inarwa on December 31 after the soldiers reportedly admitted their involvement to the police investigating the case.

At year's end, the court case against two former APF police officers charged in December 2003 rape of a 16-year-old girl in Baijapur, Banke District was still underway.

According to CVICT, in October 2003, the Sunsari District Court awarded Ram Bahadur B.K. approximately $135 (10,000 Nrs) in his 2002 torture case. The Sunsari District Court, and subsequently the Biratnagar Appellate Court, in December 2003 ruled that Krishna Lohani B.K. was not entitled to compensation in her 2002 torture case. There was no new information available concerning Chetkana Adhikary's 2002 torture complaint filed with the Alliance for Human Rights and Social Justice.

There were no updates by year's end in the 2003 torture cases of Manoj Lama, Abdesh Singh, and Kumar Lama, who had been held incommunicado and tortured at the Hanumandhoka District Police Office in Kathmandu. There were also no updates in the cases of suspected criminals Deepak Laya Magar, Ram Kumar Karki, and Jairam Bhandari, who were subjected to torture at the same facility.

On April 18, Maoists abducted a 65-year-old woman in Nuwakot District, accusing her of being a spy for security forces. The rebels bombed her house before leaving, completely destroying it, but released her 5 days later.

On June 22, Maoists hammered the legs of eight Dalits (formerly known as untouchables in the caste system) in the far-western district of Achham. Locals were warned by the Maoists not to provide any medical assistance to the Dalits.

Maoists used torture as a means to prevent peaceful political protests against their party. For example, on November 29, Maoists attacked a number of People's Front Nepal (PFN) party workers in Baglung District, in one case drilling holes into the legs and hands of the PFN Vice Chairman's wife Rupa Thapa with a hand-drill. On December 3, the Maoists drilled holes in the feet and broke both legs of PFN party worker Bhabilal Chantyal of Damek, Baglung.

Maoist insurgents used landmines that killed and injured security forces and civilians (*see* Section 1.g.).

Prison conditions were poor and did not meet international standards. Overcrowding was common. According to the Department of Prisons, of the 6,393 persons in jail, 3,024 had been convicted of a crime and 3,369 were awaiting trial. Women normally were incarcerated separately from men, and in similar conditions.

Due to a lack of adequate juvenile detention facilities, children sometimes were incarcerated with adults as criminal offenders or allowed to remain in jails with their incarcerated parents for lack of other available options (*see* Section 4). In November 2001, the Government began transferring children detained in jail to two residential facilities that provide education in accord with a provision in the 1992 Children's Act, but this has not completely ended the practice of incarcerating children with adults.

The Government permitted local human rights groups and the International Committee of the Red Cross (ICRC) to visit prisons. In some cases, the Government asked NGOs to visit prisons to provide health and counseling services. The ICRC had inconsistent access to detainees in army custody.

d. Arbitrary Arrest or Detention.—The Constitution stipulates that the authorities must arraign or release a suspect within 24 hours of arrest; however, the police at times violated this provision. Under the law, the police must obtain warrants for an arrest unless a person is caught in the act of committing a crime. For many offenses, the case must be filed in court within 7 days of arrest. If the court upholds the detention, the law authorizes the police to hold the suspect for 25 days to complete their investigation, with a possible extension of 7 days. However, the security forces occasionally held prisoners longer. In some cases, the Supreme Court ordered the release of detainees held longer than 24 hours without a court appearance. Some foreigners, including refugees, reported difficulty in obtaining bail.

Detainees not held under special antiterrorist legislation have the legal right to receive visits by family members, and they are permitted access to lawyers once authorities file charges. In practice, the police granted access to prisoners on a basis that varied from prison to prison; however, Maoist suspects often were denied visits from family members and lawyers. There is a system of bail, but bonds were too expensive for most citizens. Due to court backlogs, a slow appeals process, and poor access to legal representation, pretrial detention often exceeded the period to which persons subsequently were sentenced after a trial and conviction. Human rights groups alleged that arrest without a warrant, prolonged detention without trial, and police torture were especially evident in heavily Maoist-affected areas.

Under the Public Security Act, the authorities may detain persons who allegedly threaten domestic security and tranquility, amicable relations with other countries, or relations between citizens of different classes or religions. Persons whom the Government detained under the Act were considered to be in preventive detention and could be held for up to 6 months without being charged with a crime. The authorities may extend periods of detention after submitting written notices to the Home Ministry. The security forces must notify the district court of the detention within 24 hours, and it may order an additional 6 months of detention before authorities file official charges. This act was commonly applied in cases involving suspected Maoists because of the limited number of appellate courts available that process TADA charges and the difficulty in transporting detainees to these courts. Human rights groups alleged that the security forces have used arbitrary arrest and detention during the "People's War" to intimidate communities considered sympathetic to the Maoists.

Between April and June, observers estimated that over 1,000 political protestors, including political leaders, were arrested under the Public Security Act after the Kathmandu District Administration prohibited public gatherings. Most were released within 24 hours of their arrest.

Under the TADA, suspects must appear before a court within 60 days of their arrest. On October 13, the TADA was renewed and amended to extend the maximum period of preventive detention from 90 days to 360 days. According to police statistics, 21,470 suspected Maoists have been arrested since the beginning of the insurgency (some may have been repeat arrests). Of that number, 13,867 were released after investigation, 7,176 were charged or prosecuted, and 424 remained under investigation. Government sources estimated that approximately 1,800 Maoist suspects, including 5 Central Committee members, were released without judicial process during the 2003 ceasefire. There were no recorded cases of prosecutors bringing Maoist suspects to trial during the year. During 2003, at least 24 cases involving Maoist suspects were sent to trial in Appellate Courts, which share jurisdiction in terrorist cases with Special Tribunals. All of the trials were still ongoing at year's end. Figures for the number of persons being detained by the Army on suspicion of being Maoists were unavailable by year's end.

Other laws, including the Public Offenses Act, permit arbitrary detention. This act and its many amendments cover crimes such as disturbing the peace, vandalism, rioting, and fighting. Human rights monitors expressed concern that the act vests too much discretionary power in the CDO, the highest-ranking civil servant in each of the country's 75 districts. The Act authorized the CDO to order detentions, to issue search warrants, and to specify fines and other punishments for misdemeanors without judicial review. Many citizens involved in public disturbances, rioting, and vandalism were summarily arrested, detained for short periods (sometimes a few hours), and released.

Authorities detained journalists on occasion, on suspicion of having ties to or sympathy for the Maoists (*see* Section 2.a.).

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, courts remained vulnerable to political pressure, and bribery of judges and court staff was endemic. The Supreme Court has the right to review the constitutionality of legislation passed by parliament.

Appellate and district courts have become increasingly independent, although sometimes they remained susceptible to political pressures. For example, in Rolpa, one of the districts most affected by the "People's War," human rights groups have accused the district courts of acting in complicity with CDOs in violating detainees' rights.

The judicial system consists of three levels: District Courts, Appellate Courts, and the Supreme Court. The King appoints judges on the recommendation of the Judicial Council, a constitutional body chaired by the Chief Justice. The Council also is responsible for the assignment of judges, disciplinary action, and other administrative matters. Judges decide cases; there is no jury system. A Special Court hears cases related to narcotics trafficking, trafficking in women and girls, crimes against the state, corruption, and crimes related to foreign currency. The Appellate Courts hear cases against suspects charged with violations under the TADA.

Delays in the administration of justice were a severe problem. According to the latest statistics, the Supreme Court had a backlog of 17,781 cases; the Appellate Courts had 10,031; and district courts had 27,578. By year's end, at least 24 suspected Maoists arrested under special antiterrorism laws awaited trial in the Appellate Courts.

The Constitution provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law,

and public trials, except in some security and customs cases. These rights were not equally applied. All lower court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last resort, but the King may grant pardons. The King also can suspend, commute, or remit any sentence.

Although prisoners have a constitutional right to legal representation and a court appointed lawyer, a government lawyer or access to private attorneys is provided only on request. Consequently, those persons unaware of their rights may be deprived of legal representation. Suspects detained under the TADA often were denied access to both attorneys and family members.

There were instances of penalization of attorneys involved in the defense of human rights. On February 18, security forces arrested lawyer and journalist Dhananjay Khanal of Gorkhaland Monthly and Tanahun publications at his home in Lalitpur for unknown reasons. However, it is believed that he was arrested for providing legal services to those detained under the TADA Act. Khanal was released 3 days later. According to the Nepal Bar Association, two lawyers, Sujindra Maharjan and Rajendra Dhakal, remained in government custody at year's end. The reason for their detention was not clear.

Military courts adjudicate cases concerning military personnel under the military code, which provides military personnel the same basic rights as civilians. Military personnel are immune from prosecution in civilian courts. Military courts cannot try civilians for crimes, even crimes involving the military services; these cases are handled in civilian courts.

The authorities may prosecute terrorism or treason cases under the Treason Act. Specially constituted tribunals hear these trials in closed sessions. No such trials have occurred during the past 7 years.

The TADA law allows for terrorism cases to be prosecuted in a Special Court, although thus far terrorism cases have only been heard in the Appellate Courts. In either case, suspects may appeal verdicts to the Supreme Court.

In districts where Maoists have gained some measure of administrative control, the insurgents have set up "people's courts." These courts generally decide civil cases; however, in August, Dekendra Raj Thapa, a journalist and human rights activist, was sentenced by a "people's court" before being summarily executed (*see* section 1.a.).

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions and the Government generally observed these prohibitions. Search warrants are required before searches and seizures may be carried out, except in cases involving suspected security and narcotics violations. The law empowers the police to issue warrants for searches and seizures in criminal cases upon receipt of information about criminal activities. Within 24 hours of their issuance, warrants in misdemeanor cases must be approved by the CDO. Judges must approve them in felony cases. Under the TADA, the security forces may conduct searches as long as they inform the subject of the search in advance. Vehicle and body searches by security personnel have been common at roadblocks in many areas of the country.

There were no reports of the Government forcing civilians to resettle. However, the Maoists regularly forced family members of those serving in the police or army to flee their homes. For example, on July 15, Maoists forced 13 families to leave their homes within 24 hours in the district of Bardiya. Similarly, in Nuwakot district, Maoists forced six families to vacate their houses on July 22, demanding that the villagers bring back any family members serving in the security forces. Maoist recruitment threats also forced many citizens to flee. For example, on September 8, nearly 200 persons from Birat Village in Jumla District fled to Mugu District to avoid forced conscription. In 2003, according to an INSEC report, 38,000 persons fled their villages out of fear. Maoists repeatedly targeted the relatives of security personnel.

On March 12, Maoists in Kaski District demanded the resignations of all personnel involved in organizing the civic reception for the King's visit to Pokhara. The Maoists warned those who failed to comply that they would be expelled from the country and have their property confiscated, and as a result, many of the personnel resigned their positions.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—During the year, there was a significant internal conflict between the Government and Maoist insurgents. Both sides to the conflict killed numerous civilians.

For example, on January 5, RNA soldiers returning fire at Maoists shot and killed 82-year-old Chandra Bahadur Praja in Kaule village in Chitwan District.

In April, 4 persons were killed and 15 injured when the army carried out an air raid on Vidya Mandir Higher Secondary School at Binayak VDC in Achham. The army claimed to have been fired upon by Maoists on school grounds.

On July 13, RNA soldiers staged a sting operation in Kathmandu to catch a suspected Maoist attempting to extort money from Ullash Vaidya, an official from the Nepal Electric Authority. With security personnel watching, Vaidya gave money to the suspect, at which time security forces began firing. Both men were killed.

On August 29, Maoists firing at security forces hit and injured a 2-year-old Indian child across the border bridge in Jhulaghat of Baitadi District.

Local and international human rights groups have documented Maoist violence in areas affected by the "People's War." The Maoists most often have targeted political leaders, local elites, teachers, local-level civil servants, and suspected informers (*see* Section 1.a).

Maoists engaged in regular abduction of thousands of school children throughout the country. In June, for example, Maoists abducted more than 7,000 children for indoctrination and for service to the Maoist cadres.

According to the Government, human rights groups, and the media, Maoists conscripted civilians, including children, into service and have used abducted civilians as human shields during attacks on army and police posts (*see* Section 5).

On July 18, Maoists abducted 50 students and 12 teachers from a school within the Kathmandu Valley for a 3-day military training course. All of the students and teachers were released unharmed on July 20. In early September, the Maoists abducted over 1,000 persons in Syangja and Taplejung Districts for indoctrination, and another 2,000 in Dadeldhura for military training.

The ICRC was able on some occasions to convince the Maoists to release captured and detained individuals into ICRC custody. For example, on April 6, Maoists handed over 37 hostages to the ICRC.

The RNA used landmines to protect installations and infrastructure. There were no reports during the year of injuries or deaths from these landmines.

The Maoists used landmines in and alongside roads to attack police, military, and government vehicles. On June 14, a landmine set by Maoists in Khairekhola killed 21 police. On June 20, a landmine was used to attack a police vehicle in Dhankhola, after which Maoists opened fire with rifles. The police vehicle and a civilian bus were repeatedly hit; 14 police and 4 civilians were killed (including a 2-year-old child), and 13 police and 14 civilians (including a 3-year-old child) were wounded. According to INSEC, during May and June, improvised explosive devices used by the Maoists killed seven children and injured seven others.

The Government allowed the free movement of relief organizations. The Maoists regularly blocked relief organizations from reaching civilian populations to force NGOs to sign agreements with their regional committees. For example, as a result of Maoist actions, the U.N. stopped all operations in Dhadeldhura District in September.

There were reports during the year of military commanders and Maoists blockading shipments of food and medicine. For example, the RNA blocked food and medical supplies from reaching more than 20 villages in Accham District for a week in April. Maoists announced the blockades of several areas, including a blockade of the Kathmandu Valley and numerous blockades in western districts. One NGO reported that Maoists in Udayapur had seized 35 baskets of medicine and medical equipment, including measles vaccines, in September. On September 21, Maoists bombed a health post and destroyed a district's vaccine supply for a measles campaign.

Maoists regularly extorted money from businesses and workers, as well as NGOs. When individuals or companies refused to or were unable to pay, Maoist recrimination was almost always violent. For example, on June 28, Maoists detonated an improvised explosive device in the offices of an NGO working to support the rights of freed bonded laborers. The NGO had refused to meet Maoist extortion demands.

Maoists regularly abducted large numbers of students and other children for indoctrination programs. Maoists used civilians, including children, as human shields in wave attacks against fortified military positions. Both sides in the conflict used children as informants (*see* Section 5). Frequent Maoist-declared closures involving the stoppage of work in all economic sectors, including transportation, were enforced through violence and caused particular hardship to some. For example, during a multiple-week closure in early March in the Gandaki zone, Maoists took possession of the only ambulance in Salyan to enforce observation of the strike.

There were no reports of the Government forcing civilians to resettle. However, the Maoists regularly forced family members of those serving in the police or army as well as thousands of civilians to flee their homes (*see* Section 1.f.).

Section 2. Respect For Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution specifies that all citizens shall have freedom of thought and expression and that the Government may not censor any news item or other reading material; however, the Government imposed restrictions on these rights. The Constitution prohibits speech and writing that would threaten the sovereignty and integrity of the Kingdom; disturb the harmonious relations among persons of different castes or communities; promote sedition, defamation, contempt of court, or crime; or contradict decent public behavior or morality. The Maoists imposed restrictions on free press through intimidation and the killing of journalists.

The Press and Publications Act provides for the licensing of publications and the granting of credentials to journalists. The Act also includes penalties for violating these requirements. In addition, the Act prohibits publication of material that, among other things, promotes disrespect toward the King or the royal family; undermines security, peace, order, the dignity of the King, or the integrity or sovereignty of the Kingdom; creates animosity among persons of different castes and religions; or adversely affects the good conduct or morality of the public. There were no reports of prosecutions under the Act during the year. The Act also provides a basis for banning foreign publications; however, foreign publications were widely available. None were banned or censored during the year. Foreign media operating in and reporting on the country were allowed to operate freely.

The independent media were active and expressed a wide variety of views without restriction. There were hundreds of independent vernacular and English-language newspapers available, representing various political points of view. The Government owned Gorkhapatra, a Nepali-language daily, and The Rising Nepal, the third-largest English-language daily. Government newspapers reflected government policy. Journalists reported without significant self-censorship, despite a pervasive culture of fear due to the insurgency. Ruling political parties have influenced the editorial policy of government newspapers to their advantage.

The Broadcast Act allows private television and FM radio broadcast. The Government owned two television stations (Nepal TV and Nepal TV Metro), and controlled one radio station that broadcasts both AM and FM signals. Radio reached more that 90 percent of the population. Privately owned FM stations can broadcast their own independently collected news but also must broadcast Radio Nepal news at least once daily. The Government did not restrict access to foreign radio broadcasts, private cable networks, or the purchase of television satellite dishes. Indian, Chinese, and Pakistani broadcast television also was readily available in many parts of the country.

There were five licensed private television stations in the country, but two had yet to begin transmission. In addition to entertainment programming, commentary critical of government policies occurred during publicly broadcast discussion programs. Moreover, debates, commentaries, and roundtable discussion on contemporary issues, including government policy, have become common. Throughout the country, local entrepreneurs also received international stations via satellite for viewing in local bars and resold the signal to local residents. Consequently, international broadcasts were more widely available. Television time on the government-owned television station also was leased to private producers.

A number of journalists encountered problems during the year. According to the Center for Human Rights and Democratic Studies (CEHURDES) and the Federation of Nepalese Journalists (FNJ), at least 25 journalists had been displaced by the conflict in the 6 months following October 2003. On February 1, Drishti Weekly journalist Suroj Adhikari claimed that he was severely beaten by police during a demonstration in Kathmandu. On April 30, security personnel detained more than 40 Radio Nepal staff for several hours in their offices without giving cause. They had been broadcasting a radio program on trade unions at the time of their detention.

On January 4, security forces arrested Visha Jagaran Daily's Rabindra Shah, and held him for 24 hours while they demanded information on an article he had written. On January 12, police arrested Kamal Tamang of Jana Aastha weekly for unknown reasons in Lalitpur, although he was subsequently released.

According to the Federation of Nepalese Journalists, 13 journalists have been killed since 1996, and 10 journalists were arrested during the year. Five journalists, including two arrested in 2003, remained missing at year's end. Three of the missing journalists are believed to be in state custody, two in Maoist custody.

The Government licensed 22 companies for Internet and e-mail services and did not censor or block access to Internet sites, except for the Communist Party of Nepal (Maoist) Web site and a Web site run by Iraqi militants who killed 12 Nepalis in September.

There were no government efforts to curtail academic freedom during the year.

The Maoists did not tolerate freedom of expression and tightly restricted the print and broadcast media under their control. On April 12, in Jumla District, Maoists beat to death a 75-year-old man for speaking out against Maoist torture and extortion. On August 4, Maoists in Dailekh District ordered two journalists to leave or face the death penalty. The Maoists had previously warned the reporters to stop writing articles on local businesses that had paid Maoist extortion demands. The journalists left the district after being told they would have their hands and legs cut off. On August 11, the Maoists executed Dekendra Raj Thapa, a reporter for the state-owned Radio Nepal in the mid-western district of Dailekh (*see* Sections 1.a. and 1.g.). Following Thapa's killing, the Maoists issued death threats against nine other journalists. The Maoists also banned journalists who had not registered with them from entering rural areas, threatening to cut off their hands if they disobeyed. On September 11, the Maoists subsequently issued a statement stating that they were committed to a free press; however, the statement was released the same day the Federation of Nepalese Journalists released a condemnation of the Maoists for Thapa's death. The Maoist restriction against unregistered journalists appeared to remain in force. On September 2, Maoists threatened to kill Bijaya Mishra, a journalist with Kantipur, for failing to report the arrest of a local Maoist in Siraha.

Maoist groups regularly extorted money from private schools and teachers and sometimes inflicted punishment on school officials. Threats and intimidation from Maoist-affiliated All Nepal National Independent Student Union (Revolutionary) (ANNISU-R) succeeded in closing down more than 200 private schools, primarily in areas most heavily affected by Maoist activities. Maoists used threats to force school closures throughout the country. For example, a school closure that ended in September affected more than 700,000 students. Maoists also used schools to recruit child soldiers under the slogan of, "One educational institution, one excellent militia." The ANNISU-R demanded, often violently, the halving of tuition, curriculum changes, and the banning of the singing of the national anthem. In some areas, the Maoists demanded schools follow a calendar devoid of religious holidays (*see* Section 2.c.).

The Maoists have killed 71 teachers since the beginning of the insurgency, including 9 during the ceasefire, and have destroyed 26 school buildings. Teachers in Maoist-affected areas reported regular threats and extortion demands.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association; however, the Government restricted these rights on vague grounds, such as undermining the sovereignty and integrity of the State or disturbing law and order. The Government continued to require that organizers apply for permits for public rallies and demonstrations. Large public demonstrations were common. The Government suspended the right to assemble in Kathmandu Valley from April 8 through May 3. During the year, some protests turned violent, and police sometimes used baton charges to break up demonstrations. Throughout the year, local authorities in Kathmandu prevented Tibetan community public celebrations, including those to venerate the Dalai Lama (*see* Section 2.c.).

During the year, Maoists deprived citizens of the right to assembly. For example, Maoists regularly attacked peaceful protests organized by the PFN (Jana Morchha) Party against Maoist atrocities, and used torture and intimidation to prevent future protests (*see* Section 1.c.).

c. Freedom of Religion.—The Constitution provides for freedom of religion and permits the practice of all religions; however, proselytizing was prohibited and punishable with fines or imprisonment, and members of minority religions occasionally complained of police harassment. Some Christian groups were concerned that the ban on proselytizing limited the expression of non-Hindu religious belief. The Constitution describes the country as a Hindu Kingdom, although it does not establish Hinduism as the state religion.

The Press and Publications Act prohibits the publication of materials that create animosity among persons of different castes or religions.

In 2002, the Government ordered Muslim religious schools to register with the local District Administration Officers. The schools had to supply information about their funding sources in order to continue operation. Some Muslim leaders criticized the move as discriminatory. The registration requirement was not enforced during the year.

A conviction for conversion or proselytizing can result in fines or imprisonment or, in the case of foreigners, expulsion from the country. There were no incidents of punishment for conversion or proselytizing during the year. Nongovernmental groups or individuals were free to file charges of proselytizing against individuals or organizations.

In March, police in Kathmandu prohibited Tibetans celebrating the New Year from carrying pictures of the Dalai Lama around the Bhouddhanath stupa as part of religious ceremonies, a restriction that has been imposed since 2002. The Government restricted to private places (school grounds or inside monasteries) all of the local Tibetan celebrations (Tibetan New Year, the Dalai Lama's birthday, Democracy Day, and International Human Rights Day/Celebration of the Dalai Lama receiving the Nobel Peace Prize).

On September 1, after an Iraqi militant group in Iraq killed 12 citizen workers, mob violence in Kathmandu and other parts of the country targeted mosques and Muslim businesses, as well as manpower agencies and press houses. Seven persons were killed, four by mob violence because they were or were believed to be Muslim.

Government policy did not support religious extremism, although some political figures made public statements critical of Christian missionary activities.

The caste system strongly influenced society, although it was prohibited by the Constitution. Caste discrimination was widely practiced at Hindu temples.

On June 19, unconfirmed local media reported that Maoist insurgents banned worship in the Khadgadevi temple in Maidikot, Dhading District, employing threats and intimidation to enforce the ban.

There were regular reports of Maoists enforcing a "people's calendar" in schools that did not allow for religious holidays. According to one Christian organization, Maoists began demanding the use of church grounds for their indoctrination programs in eastern Nepal. When the demands were refused, churches were forced to close.

On September 12, Maoists exploded a bomb and forced the closure of St. Joseph's school in Pokhara. The school's 551 students mostly were from underprivileged ethnic communities.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. Unlike in previous years, the Government did not restrict access to the Chinese border. In January 2003, the Government lifted restrictions on women's travel to the Gulf States to work as domestic servants. The Government established restrictions on travel to work in Iraq, although these restrictions were not evenly enforced. The Constitution prohibits exile, and it was not used. The Government allowed citizens to emigrate and those abroad to return, and was not known to revoke citizenship for political reasons.

Internal displacement because of the Maoist insurgency continued to be a problem, with estimates of the number displaced ranging widely. International organizations estimated that between 100,000 and 200,000 citizens may have been internally displaced. The variation existed because there were no internally displaced persons (IDP) camps; those displaced usually stayed with relatives and did not register with the Government or seek assistance. On August 8, the Government constituted a task force to look into the issue of IDPs, and the Government has since engaged with donors in a dialogue to develop policies to help those displaced.

The law does not provide for the granting of refugee or asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and the Government generally cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylees. The UNHCR maintained an office in Kathmandu and a sub-office in Damak. Between 1959 and 1989, the Government accepted as residents approximately 20,000 Tibetan refugees, most of whom still reside in the country. Since 1991, the Government has provided asylum to approximately 107,000 persons who claim Bhutanese citizenship. The great majority of these refugees lived in UNHCR-administered camps in the southeastern part of the country. Approximately 15,000 additional Bhutanese refugees resided outside the camps in either the country or India. The Government allowed UNHCR to provide services for other asylum seekers, such as individuals from Iraq and Sudan. The UNHCR also was permitted to visit the Nepal-China border eight times during the year.

The People's Republic of China and the Government tightened control of movement across the border in 1986, but neither side has consistently enforced those restrictions. Police and customs officials occasionally harassed Tibetan asylum seekers who fled China. According to the UNHCR, police conduct in this regard has improved since 1999, although border police sometimes extorted money from Tibetans

in exchange for passage. There were regular but unconfirmed reports this year that Tibetan asylum seekers were sometimes handed back to Chinese authorities after crossing the border. Maoists regularly robbed Tibetan refugees traveling from border areas to Kathmandu on foot or by car.

The Government continued to characterize the May 2003 deportations of 18 Tibetan asylum seekers as an aberration that did not reflect official policy. In November 2003, the Government released all remaining Tibetan asylum seekers held in detention after a private benefactor paid their immigration fines. There were no Tibetan asylum seekers in jail at year's end.

The UNHCR monitored the condition of Bhutanese refugees and provided for their basic needs. The Government accepted the temporary refugee presence on humanitarian grounds. The camps were administered by UNHCR; the World Food Program (WFP) provided sustenance; and the Government made a contribution to the WFP earmarked for the refugees. In 2002, there were reports by refugee women and children that some of the Bhutanese refugee workers at the camps had committed sexual assaults. The Government responded by providing more police protection to the camp, and UNHCR conducted an investigation that resulted in the removal of certain local personnel and increased protection measures for refugee women and children (*see* Section 5). In September 2003, Maoists attacked a police post in one of the camps, killing one policeman. In response, the Government withdrew its permanent police presence from all seven camps.

The Government officially restricted refugee freedom of movement and work, but did not strictly enforce its policies. Bhutanese refugees were not allowed to leave the camps without permission, but it was consistently granted. Local authorities attempted to restrict some of the limited economic activity in the camps permitted by the central Government. Violence sometimes broke out between camp residents and the local population.

After a December 2003 briefing for Khudunabari Camp refugees by the Bhutanese Joint Verification Team resulted in disorder and throwing of stones, the planned repatriation to Bhutan of certain refugees from Khudunabari Camp and the verification of other camps were indefinitely delayed. The Government linked the repatriation of an initial pilot group of refugees to Bhutan to the resumption of the Nepal-Bhutan Joint Verification Team process. These processes had not resumed by the end of the year.

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

The Constitution provides citizens with the right to change their government peacefully; however, the ongoing insurgency prevented the holding of elections. Since the dismissal of the elected government in 2002, the King has appointed three interim governments, but parliament has not been reestablished. In the past, citizens exercised this right in practice through free and fair elections held on the basis of universal suffrage. Citizens, through their elected representatives, also have the right to amend the Constitution with the exception of certain basic principles that they may not change—sovereignty vested in the people, the multiparty system, fundamental rights, and the constitutional monarchy. Executive power is vested in the King and the Council of Ministers.

Parliamentary elections are scheduled at least every 5 years. Midterm elections may be called if the ruling party loses its majority, loses a vote of no confidence, or calls for elections. The Prime Minister dissolved the Parliament in 2002, and the term of the Parliament subsequently expired. The ongoing insurgency prevented new elections. Since 2002, the King has appointed three interim governments, the most recent being the reinstatement of Sher Bahadur Deuba as Prime Minister on June 2. By year's end, no date had been set for national or local elections.

Under the Constitution, all citizens 18 and over may vote. The House of Representatives, or lower house, may send legislation directly to the King by majority vote. The National Assembly, or upper house, may amend or reject lower house legislation, but the lower house can overrule its objections. The upper house also may introduce legislation and send it to the lower house for consideration.

The King exercised certain powers with the advice and consent of the Council of Ministers and the Prime Minister. The King has exclusive authority to enact, amend, and repeal laws relating to succession to the throne. The King's income and property are tax-exempt and inviolable, and no question may be raised in any court about any act performed by the King. The Constitution permits the King, acting on advice of the Council of Ministers, to exercise emergency powers in the event of war, external aggression, armed revolt, or extreme economic depression. In such an emergency, the King, as advised by the civilian government, may suspend without judicial review many basic freedoms, including the freedoms of expression, assembly,

movement and residence, freedom from censorship, and freedom from preventive detention. However, he may not suspend habeas corpus or the right to form associations. The King's declaration of a state of emergency must be approved after 3 months by a two-thirds majority of the lower house of the parliament. If the lower house is not in session, the upper house exercises this power. A state of emergency may be maintained for up to 3 months without legislative approval and for up to 6 months, renewable only once for an additional 6 months, if the legislature grants approval.

The Constitution bars the registration and participation in elections of any political party that is based on religion, community, caste, tribe, or region, or that does not operate openly and democratically. In the 1999 election, there were sporadic incidents of violence that occurred mainly between supporters of rival political parties. Maoist efforts to disrupt the 1999 elections by intimidating voters and candidates had some effect. The elections generally were held throughout the country according to schedule. International observers considered the elections to be generally free and fair.

There were 125 registered political parties. Under the law, individuals may contest elections in the district in which they are on the election rolls, whether independently or with a political party. There is no dominant party. Most larger political parties have associated youth wings, trade unions, and social organizations.

The Constitution provides for an anticorruption authority, the Commission for the Investigation of the Abuse of Authority (CIAA), and it is used to investigate official acts of corruption. On July 22, the CIAA acted against former Deputy Prime Minister Chiranjivi Wagle, who was found guilty on corruption charges and sentenced to 2 years in jail and a fine of approximately $500,000 (37,000,000 Nrs). The CIAA also won a case before the Supreme Court on September 15 that forced several senior politicians, including a former Prime Minister, to testify before the anticorruption body.

The Constitution provides citizens with a right to information "on any matter of public importance," except in cases where secrecy is required by law. There were no known examples of this section of the Constitution being tested.

There are no specific laws that restrict women, indigenous people, or minorities from participating in the Government or in political parties. Tradition limits the roles of women and some castes in the political process. However, the Constitution requires that women constitute at least 5 percent of each party's candidates for the House of Representatives. The law also requires that at least 20 percent of all village and municipal level seats be reserved for female candidates. The 1999 elections resulted in an increase from 7 to 12 in the number of women in the 205-seat lower house and from 5 to 9 in the 60-seat upper house. There were three women in the Cabinet appointed by the King on July 3.

No specific laws prevent minorities from voting or restrict them from participating in the Government and political parties on the same basis as other citizens. There are no special provisions to allocate a set number or percentage of political party positions or parliamentary seats for any minority group. Members of certain castes traditionally have held more power than others. Seven members of the 31-member Cabinet were from an ethnic minority community.

The Maoists have attempted to restrict the right of citizens to change their government. For example, on August 25, the Maoists threatened the Election Commissioners, demanding that they resign or face serious consequence because of an implied intention to hold national elections within 12 months.

On September 7, Maoists attacked a peaceful political rally of the People's Front Nepal (PFN) in Dullu, Dailekh District. Seven PFN activists were injured, including the party general secretary (*see* Sections 1.c. and 2.b.).

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials sometimes were cooperative and responsive to their views. There were no reports that the Government detained human rights activists suspected of Maoist affiliation during the year. However, there were complaints of intimidation being used against human rights NGOs and workers by both the Government and the Maoists. There were approximately 10 wholly independent domestic human rights NGOs, including the Human Rights Organization of Nepal (HURON), INSEC, the International Institute for Human Rights, Environment, and Development (INHURED), and the Human Rights and Peace Society (HURPES). The Nepal Law Society also monitored human rights abuses, and a

number of NGOs focused on specific areas such as torture, child labor, women's rights, or ethnic minorities.

The insurgency has caused a number of NGOs to reduce their activities substantially. There were frequent credible claims that Maoists refused to allow human rights NGOs and journalists to enter certain western districts. In addition, Maoists have killed and abducted NGO workers. In mid-September, for example, Maoists abducted Kamal Gurung, a worker associated with a UNICEF child assistance program in Dadeldhura. There were credible reports during the year that insurgents stole emergency food supplies from NGO programs targeting vulnerable populations (*see* Section 1.g.).

The Government regularly granted visas to international NGO human rights monitors. Amnesty International conducted a research mission to the country from January 23 to February 4. Human Rights Watch made several assessment and monitoring visits during the year. In December, a mission from the International Commission of Jurists visited the country. The Government cooperated with international nongovernmental organizations. The U.N. Office of the High Commissioner for Human Rights has a technical advisor posted in the country, and sent a Joint Technical Mission to the country from February 12 to 17. In December, the UN Working Group on Enforced and Involuntary Disappearances visited the country.

In 1997, the Government formed the NHRC, a government-appointed commission with a mandate to investigate human rights violations. The commission included members from all major political parties and operated independently; however, resource constraints and insufficient manpower restricted the number of cases the commission brought to court. During the year, the Government doubled the commission's budget. Once the NHRC completes an investigation and makes a recommendation, the Government has 3 months to respond. Since its establishment, the Commission has received 2,328 complaints of human rights violations, investigated 500 cases, and recommended compensation in 27 cases. Of the cases the NHRC identified, 1,340 involved the disappearance of detainees. Of these, the State subsequently released 124 persons, and the Maoists released 27. Illegal detention and arrest of acquitted persons were also investigated.

On March 26, the Government released a statement on "His Majesty's Commitment on the Implementation of Human Rights and International Humanitarian Law" and on July 15 released a National Human Rights Action Plan. Although these are relatively new public commitments, observers generally have been critical of the Government's implementation efforts.

In 2003, the Government established the Human Rights Promotion Center in the Office of the Prime Minister. The main purpose of the Center is to provide coordination between government ministries, the National Human Rights Commission, and NGOs on human rights issues. For example, the Center played a constructive role in coordinating a memorandum of understanding between the Government and the U.N. Office of the High Commissioner for Human Rights for assistance to the National Human Rights Commission.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution specifies that the Government shall not discriminate against citizens on grounds of race, sex, caste, or ideology; however, a caste system operated in many areas of daily life and throughout the country. Societal discrimination against lower castes, women, and persons with disabilities remained common, especially in rural areas.

Women.—Domestic violence against women was a serious problem that received limited public attention. There was a general unwillingness among citizens, and particularly among government authorities, to recognize violence against women as a problem. In a 1998 survey conducted by local NGO SAATHI, 42 percent of the respondents said that in their experience medical practitioners were uncooperative or negligent in cases of violence against women and girls. SAATHI also reported that 82 percent of female respondents were victims of beatings and 66 percent were victims of assault. This unwillingness to recognize violence against women and girls as unacceptable in daily life was seen among police and politicians as well.

The police department has 18 women's cells with female officers who received special training in handling victims of domestic violence. The police also have sent out directives instructing all officers to treat domestic violence as a criminal offense that should be prosecuted. However, according to a police official, this type of directive was difficult to enforce because of entrenched discriminatory attitudes. Even though police may make an arrest, often neither the victim nor the Government pursued further prosecution.

At least 10 NGOs in Kathmandu worked on the problem of violence against women and on women's issues in general. SAATHI's assistance program includes a

women's shelter and a suicide intervention center. The shelter provided housing, medical attention, counseling, and legal advocacy for the victims of violence.

Rape and incest also were problems, particularly in rural areas. Laws against rape provide for prison sentences of 6 to 10 years for the rape of a woman less than 14 years of age, and 3 to 5 years for the rape of a woman above the age of 14. The law prescribes imprisonment for 1 year or a fine for the rape of a prostitute. The law prohibits spousal rape. A survey conducted by SAATHI found that 39 percent of rape victims who reported the crime to police were under the age of 19. Of those victims who reported the crime to the authorities, 25 percent said the perpetrator was convicted and jailed.

The dowry tradition was strong. The killing of brides because of defaults on or inadequacy of dowry payments was rare. More common was physical abuse of wives by the husband and the husband's family to obtain additional dowry, or to force the woman to leave to enable the man to remarry.

Folk beliefs about witchcraft generally involved rural elderly women, sometimes widows. Shamans or other local authority figures sometimes publicly beat and physically abused suspected witches as part of an exorcism ceremony.

On September 18 in Karthali Village in Sindhupalchowk, Sobhit Singh Raut killed 76-year-old Sumitra Khadka, accusing her of using witchcraft to kill his uncle. Raut was arrested on charges of murder.

In May 2003, Raheli Pariyar died in Rampur, Ramechhap District, as a result of an "exorcism" performed by local shamans.

According to INSEC, there were 67 victims of witchcraft-related violence in 2003. In May 2003, the NHRC asked the Government to develop a mechanism to prevent such abuses and to provide compensation to the abused.

Trafficking in women remained a serious problem throughout the country, and large numbers of women were forced to work against their will as prostitutes in other countries (*see* Section 5, Trafficking).

In September 2003, Human Rights Watch released a report titled "Trapped by Inequality: Bhutanese Refugee Women in Nepal," which examined the response of the UNHCR and the Government to rape, domestic violence, sexual and physical assault, and trafficking of girls and women from refugee camps. The report said that the country's system of refugee registration discriminated against women by distributing rations through male heads of households. Further, the report noted that 35 refugee women and girls were missing from the camps and might have been victims of trafficking.

Although the Constitution provides protections for women, including equal pay for equal work, the Government has not taken significant action to implement those provisions, even in many state industries. Women faced systematic discrimination, particularly in rural areas, where religious and cultural traditions, lack of education, and ignorance of the law remained severe impediments to the exercise of basic rights, such as the right to vote or to hold property in their own names. Inheritance laws were revised in 2002 so that unmarried, widowed, or divorced women can inherit parental property. On July 29, the Supreme Court struck down Section 12 (a) of the Provision of Inheritance by Default of the Civil Code, which states that upon marriage women must return any property inherited from their parents. Additionally, the Court ordered the creation of a government panel to study and form recommendations on discriminatory laws against women. The Citizenship Law discriminates against foreign spouses of female citizens, and denies citizenship to the children of female citizens married to foreign spouses, even if those children are born in the country. Many other discriminatory laws still remain. According to legal experts, there were more than 50 laws that discriminate against women. For example, the law grants women the right to divorce, but on narrower grounds than those applicable to men. The law on property rights also favors men in its provisions for land tenancy and the division of family property.

According to the 2001 census, the most recent statistics available, the female literacy rate was 43 percent, compared with 65 percent for men. NGOs focused on integrating women into active civil society and the economy. There also were a growing number of women's advocacy groups. Most political parties have women's groups that advocate for women's rights and bring women's issues before the party leadership.

Children.—The Government is committed to the welfare and education of children, but implementation of laws and programs has been uneven, in part due to violence resulting from the ongoing insurgency. Education is not compulsory. However, government policy was to provide free primary education for all children between the ages of 6 and 12 years. The quality of education provided was sorely inadequate, as many families could not afford school supplies and clothing, and schools do not

exist in all areas. Schools charge fees for higher education. Approximately 60 percent of the children who worked also attended school. However, approximately 70 to 75 percent of boys who work go to school, compared with only 50 to 60 percent of the girls who work. Human rights groups reported that girls attend secondary schools at a rate half that of boys. In April 2003, the Department of Education issued a report finding that one-quarter of elementary school-aged girls remained deprived of basic education.

Basic health care was provided free to children and adults, but government clinics were poorly equipped and few in number, and serious deficiencies remained.

Violence against children was rarely prosecuted, and abuse primarily manifested itself in trafficking of children. Forced prostitution and trafficking in young girls remained serious problems (*see* Section 5, Trafficking).

Societal attitudes view a female child as a commodity to be bartered off in marriage, or as a burden. Some persons considered marrying a girl before menarche an honorable, sacred act that increases one's chances of a better afterlife. As a result, although the law prohibits marriage for girls before the age of 18, child brides were common. According to the Ministry of Health, girls' average age of marriage was 16 years of age. The age difference in marriage often was cited as one cause of domestic violence.

There were numerous credible reports that Maoists recruited teenagers to serve as porters, runners, cooks, and armed cadre. During the 2003 ceasefire, the Maoists reportedly abducted hundreds of rural teens and children, requiring them to attend training and indoctrination programs and join their ranks. In June, Maoists abducted more than 7,000 children for indoctrination or for service to the Maoist cadres.

There were reports of children held in jail or in custody as suspected Maoists. For example, in July, security forces arrested 14-year-old Lila Pariyar of Sutwal-7 Village in Nawalparasi District on suspicion of being a Maoist. In September, Pariyar was discovered in a district jail, where she had been held for 2 months.

For more details on the problem of child labor, see Section 6.d.

Internal displacement due to the insurgency, including of children, continued to be a problem, with estimates of the number displaced ranging widely. The Government has identified 30 districts to focus programs on the education and health of conflict-affected children.

A number of effective NGOs work in the field of childrens' issues, including the International Labor Organization (ILO) (to eliminate the worst forms of child labor and promote child education), the Sahara Group, CWIN (Child Workers in Nepal Concerned Centre), CVICT (Centre for Victims of Torture), Ray of Hope, Terre des hommes (Tdh), Maiti Nepal, ABC Nepal, the Forum for Women, Law and Development (FWLD), and several others.

Trafficking in Persons.—The law prohibits trafficking in persons and prescribes imprisonment of up to 20 years for infractions; however, trafficking in women and girls remained a serious problem. There is legislation to protect women from coercive trafficking, but enforcement of antitrafficking statutes remained sporadic. The Human Trafficking Control Act prohibits selling persons in the country or abroad and provides for penalties of up to 20 years' imprisonment for traffickers. However, this legislation does not criminalize the separation of minors from their legal guardians with the intent of trafficking. As a result, no crime is considered to have occurred until the victim and perpetrators are outside the jurisdiction. There were many social and legal obstacles to successful prosecution, and convictions were rare. In June 2003, the Special Court sentenced to 75 years of imprisonment the leader of a gang involved in selling nearly 100 girls to brothels in India. Six of his accomplices received lesser sentences ranging from 36 months' to 12 years' imprisonment. Border guards commonly accepted bribes to allow contraband and trafficked girls in or out of the country.

The country was a source country for trafficking. Young women were by far the most common targets; trafficking of boys rarely was reported, but girls as young as 9 years of age were trafficked. While the vast majority of trafficking was of women and girls for sexual exploitation, women and girls sometimes were trafficked for domestic service, manual or semi-skilled bonded labor, or other purposes. Most women and girls trafficked from the country went to India. According to the 2003–04 annual report of the Attorney General's Office, 133 trafficking cases were filed in district attorneys' offices across the country. At year's end, of the 133 cases, 32 resulted in full or partial convictions, 18 in acquittal, and 83 remained pending.

Local NGOs combating trafficking estimated that from 5,000 to 12,000 women and girls were lured or abducted annually into India and subsequently forced into prostitution; however, these numbers were not consistent, and NGOs were seeking

better estimates. Citizens reportedly also were trafficked to Hong Kong, Saudi Arabia, and other countries in the Middle East. A ban on female domestic labor leaving the country to work in Saudi Arabia and other countries in the Gulf was lifted in January 2003 for the organized sector. Women who have proof of external employment with an organization of 10 or more employees may travel to the Gulf.

Hundreds of girls and women returned voluntarily or were rescued and repatriated to the country annually after having worked as commercial sex workers in India. Most were destitute and, according to some estimates, 50 percent were HIV-positive when they returned.

A 2001 study by the ILO International Program on the Elimination of Child Labor found that 30 percent of sex workers in Kathmandu were below 18 years of age. Another study by a foreign labor department states that 5,000 to 7,000 sex workers were between the ages of 10 and 18 years.

Government officials suspected that organized crime groups and marriage brokers were the primary perpetrators of trafficking in the country. The traffickers usually were from the country, but had links to brothels in India. In some cases, parents or relatives sold women and young girls into sexual slavery. NGOs' unverified estimates were that approximately 50 percent of the victims were lured to India with the promise of good jobs and marriage, 40 percent of the victims were sold by a family member, and 10 percent were kidnapped. NGOs have found that once prevention programs were initiated in a district, the traffickers moved to other areas. Youth displaced from homes as a result of the insurgency were especially vulnerable to being trafficked.

While the Government lacked both the resources and institutional capability to address effectively its trafficking problem, the Government has established a National Task Force at the Ministry of Women, Children and Social Welfare (MOWCSW) with personnel assigned to coordinate the response. There were programs in place to train police, and the MOWCSW worked closely with local NGOs to rehabilitate and otherwise assist victims. While the Government promulgated a National Plan of Action to combat trafficking in August 2003, its implementation was haphazard.

The Government provided limited funding to NGOs to provide assistance to victims with rehabilitation, medical care, and legal services. The Ministry of Labor and Social Welfare sponsored job and skill training programs in several poor districts known for sending commercial sex workers to India. The Government protected the rights of victims and did not detain, jail, or prosecute them for violations of other laws.

The Government, together with NGOs and international organizations, has implemented local, regional, and national public awareness campaigns about trafficking in persons. However, the Government failed to budget for adequate police training and resources, and the courts were overburdened. Government welfare agencies generally were incapable of delivering effective public outreach programs or assistance to trafficking victims without the help of NGOs.

Cultural attitudes toward returned victims of trafficking were often negative, and the Government response sometimes reflected that bias. There were more than 50 NGOs combating trafficking, several of which had rehabilitation and skills training programs for trafficking victims. Two representative NGOs were members of the MOWCSW's National Task Force Against Trafficking. With the Government's endorsement, many NGOs have public information and outreach campaigns in rural areas. These groups commonly used leaflets, comic books, films, speaker programs, and skits to convey anti-trafficking messages and education. Some organizations involved in the rehabilitation of trafficking victims stated that their members had been threatened and that their offices had been vandalized because of their activities.

The International Agency Coordinating Group, comprised of NGOs, bilateral donor agencies, and government agencies, met regularly to share information, plan common approaches, and avoid duplication of work.

Persons With Disabilities.—There was discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services. The Disabled Persons Protection and Welfare Act and additional 1994 rules mandate accessibility to buildings, transportation, employment, education, and other state services, but these provisions generally were not enforced. Despite government funding for special education programs, the Government did not implement effectively or enforce laws regarding persons with disabilities. The MOWCSW is responsible for the protection of those with disabilities. A number of NGOs working with persons with disabilities received significant funding from the Government, but

persons with physical or mental disabilities relied almost exclusively on family members to assist them.

Persons with disabilities faced widespread societal discrimination. Families often were stigmatized by and ashamed of family members with disabilities. Economic integration was further hampered by the general view that persons with disabilities were unproductive. Due to the inadequacy of facilities, the authorities sometimes placed prisoners with mental disabilities in jails under inhumane conditions. A 2001 report authored jointly by UNICEF and the National Planning Commission estimated that there were approximately 400,000 persons with disabilities in the country.

National/Racial/Ethnic Minorities.—The Constitution provides that each community shall have the right "to preserve and promote its language, script, and culture," and that each community has the right to operate schools at the primary level in its native language. In practice, the Government generally upheld these provisions.

There are more than 75 ethnic groups that speak 50 different languages. In remote areas, school lessons and radio broadcasts often were in the local language. In urban areas, education was almost exclusively offered in Nepali or English.

Discrimination against lower castes was especially common in the rural areas in the western part of the country, even though the Government outlawed the public shunning of Dalits and made an effort to protect the rights of the disadvantaged castes. For example, on September 6 in Bhagawatpur-9 Village in Rajbiraj, villagers imposed a ban on 35 Chamar Dalit families from using community services and facilities after the Dalits demanded the right not to be forced to handle dead carcasses. Many Dalits also lost their jobs. The police and district authorities had not addressed the incident at year's end.

Economic, social, and educational advancement tended to be a function of historical patterns, geographic location, and caste. Better education and higher levels of prosperity, especially in the Kathmandu Valley, were slowly reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Better educated, urban-oriented castes continued to dominate politics and senior administrative and military positions, and to control a disproportionate share of natural resources.

Caste-based discrimination, including barring access to temples, is illegal. However, Dalits were barred from entering temples on occasion. For example, in December, Dalits were denied entry into a Hindu temple in Bharatpur. Progress in reducing discrimination was more successful in urban areas.

Other Societal Abuses and Discrimination.—The Constitution does not recognize sexual minorities, but the country does not have any laws that specifically criminalize or proscribe sanctions against sexual minorities. Government authorities, especially police, sometimes harassed and abused homosexuals. On August 9, 39 homosexual rights advocates were arrested and detained for 11 days under the Public Offenses Act. They were subsequently released on bail. According to the Blue Diamond Society (BDS), an NGO that works to support the well-being of the country's sexual minorities, after a 2003 meeting between BDS and police, the police Inspector General issued a letter to all police stations expressing concern at the level of police violence against homosexuals.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the freedom to establish and join unions and associations, and these rights were protected in practice. It permitted the restriction of unions only in cases of subversion, sedition, or similar conditions. Trade unions developed administrative structures to organize workers, to bargain collectively, and to conduct worker education programs. The three largest trade unions were affiliated with political parties.

Union participation in the formal sector accounted for approximately 10 to 12 percent of the formal work force. The Labor Act of 1992 and the Trade Union Act of 1992 formulated enabling regulations; however, the Government has not yet fully implemented these acts. The Trade Union Act defines procedures for establishing trade unions, associations, and federations. It also protects unions and officials from lawsuits arising from actions taken in the discharge of union duties, including collective bargaining, and prohibits employers from discriminating against trade union members or organizers.

The Government did not restrict unions from joining international labor bodies. Several trade federations and union organizations maintained a variety of international affiliations.

In August and early September, the Maoist-affiliated trade union forced the closure of 12 companies for a month, and almost 50 additional companies for about

a week, threatening to damage facilities and to physically harm workers and their families if they returned to work.

b. The Right to Organize and Bargain Collectively.—The Labor Act provides for collective bargaining, although the organizational structures to implement the Act's provisions have not been established. The Government allowed unions to operate freely and without interference. Collective bargaining agreements covered an estimated 10 percent of wage earners in the organized sector. However, in general, labor remained widely unable to use collective bargaining effectively due to legal obstacles to striking and inexperience.

The law provides the right to strike except by employees in essential services, and workers exercised this right in practice. The law empowers the Government to halt a strike or to suspend a union's activities if the union disturbs the peace or if it adversely affected the nation's economic interests. Under the Labor Act, 60 percent of a union's membership must vote in favor of a strike in a secret ballot for the strike to be legal.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Sections 5 and 6.d.). The Department of Labor enforced laws against forced labor in the small formal sector, but remained unable to enforce the law outside that sector.

Enforcement of the Kamaiya Prohibition Act by the Government was uneven, and social integration of the Kamaiyas was difficult. According to the ILO, 12,019 Kamaiyas have received land, 7,149 families each have received approximately $230 (17,020 Nrs) for building homes, and about 6,000 have received timber to build houses. The Government has set up temporary camps for approximately 14,000 Kamaiyas still awaiting settlement. The food-for-work program was terminated in November. A 2001 ILO Rapid Assessment estimated that 17,000 child laborers were working as bonded laborers in the remnants of the Kamaiya system.

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor is a significant problem, particularly in the large informal sector, which includes such businesses as portering, rag picking, and rock breaking. The Constitution stipulates that children shall not be employed in factories, mines, or similar hazardous work and limits children between the ages of 14 and 16 years to a 36-hour workweek (6 hours a day and 6 days a week). The Child Labor Act applies only to formal sectors of the economy, such as tourism, cigarette or carpet factories, and mines, but not to informal sectors or subsistence agriculture. The law establishes a minimum age for employment of minors at 16 years in industry and 14 years in agriculture and mandated acceptable working conditions for children. Children under the age of 14 years are prohibited from working. Employers must maintain records of all 14-to 16-year-old laborers. The Child Labor Act also established specific penalties for those who unlawfully employ children. However, the necessary implementing regulations have not been passed.

Resources devoted to enforcement were limited, and children worked in many sectors of the economy. NGOs estimated that 2.6 million children—most of them girls—were economically active. Of that number, 1.7 million children worked full time. The agricultural sector accounted for most child laborers—an estimated 95 percent. Roughly 60 percent of children who work also attend school. Others are economically active in a few small-scale and cottage industries.

There were credible reports that the Maoists forcibly recruit children, including girls, as soldiers, human shields, runners, and messengers (*see* Section 5).

The Ministry of Labor's enforcement record was mixed. In 2003, according to the Ministry, its 14 inspectors conducted approximately 500 inspections (out of 20,000 registered companies) to ensure that no child labor was present. The Ministry reported that no children under the age of 14 were found working in the factories inspected. The Government also conducted public awareness programs to raise public sensitivity to the problem of child labor.

The private sector has made its own efforts to eradicate child labor, especially in the carpet industry. In 1999, the Carpet Manufacturers Association pledged publicly to end child labor in the industry by 2005. The Rugmark Foundation certified that carpets were made without child labor. There are 517 member-companies (an estimated 67 percent of the industry) in Rugmark. Rugmark's four inspectors conducted inspections, issued warnings, and if repeated violations occurred, disassociated companies from the program. As a result of this initiative, and of consumer pressure, Rugmark estimated that children constituted only 2 percent of the work force in the export-oriented carpet industry. However, children's rights activists stated that children remained a part of the work force in the smaller factories and family weaving

units. Rugmark conducted 29,562 inspections at factories, identifying and removing 613 children from factories. Rugmark reunited 465 children with their families, and another 187 were in Rugmark rehabilitation centers. Rugmark revoked two licenses from carpet factories where children were found employed.

e. Acceptable Conditions of Work.—In April 2003, the Government raised the minimum monthly wage for unskilled labor to $25 (1894 Nrs). The law also defined monthly minimum wages for semi-skilled labor at approximately $26 (1944 Nrs), skilled labor at $28 (2,054 Nrs), and highly skilled labor at $30 (2,244 Nrs). The minimum wage for children ages 14 to 16 was set at $21 (1,558 Nrs). Additional allowances for food and other benefits total $7 (500 Nrs) per month for adult labor, and $5 (360 Nrs) per month for children aged 14–16. Wages in the unorganized service sector and in agriculture often were as much as 50 percent lower. The Labor Act calls for a 48-hour workweek, with 1 day off per week, and limits overtime to 20 hours per week. None of these minimum wages were sufficient to provide a decent standard of living for a worker and family.

The Government also set health and safety standards, and other benefits such as a provident fund and maternity benefits were established in the Labor Act. Implementation of the Labor Act has been slow, as the Government has not created the necessary regulatory or administrative structures to enforce its provisions. Workers did not have the right to remove themselves from dangerous work situations without fear of losing their jobs. Although the law authorizes labor officers to order employers to rectify unsafe conditions, enforcement of safety standards remained minimal.

PAKISTAN

Pakistan is a federal republic. Chief of Army Staff Pervez Musharraf overthrew the elected civilian government in 1999. The Supreme Court later legitimized the overthrow, but ordered Musharraf to restore elected government within 3 years. Musharraf assumed the Presidency by decree in 2001. In 2002, a controversial national referendum affirmed Musharraf as President for 5 years. Elections for the National Assembly were held in 2002. Domestic and international observers termed the elections deeply flawed. Musharraf's Pakistan Muslim League (PML) won a plurality of seats and formed a governing coalition with several smaller parties. Indirect Senate elections in February 2003 gave the governing coalition 55 of 100 seats. In December 2003, the National and Provincial Assemblies passed the 17th Amendment to the Constitution. The Amendment transfers a number of powers from the Office of Prime Minister to the President, affirms Musharraf's presidency through 2007, sets the terms under which the President could dissolve the National Assembly, and exempts Musharraf from a prohibition on holding two offices of state until the end of the year, allowing him to remain as Chief of Army Staff. In October, over opposition protests, Parliament passed another bill that exploits a loophole in the Constitution to extend the exemption until 2007. The judiciary was nominally independent but remained subject to corruption and political pressure.

Police have primary internal security responsibilities, although paramilitary forces, such as the Rangers and the Frontier Constabulary, provide support in areas where law and order problems are acute. Provincial governments control police and the paramilitary forces when they assist in law and order operations. During some religious holidays, the regular army was deployed in sensitive areas to help maintain public order. The civilian authorities maintained control of the security forces; however, there were instances when local police acted independently of government authority. Some members of the security forces committed numerous serious human rights abuses.

The economy was primarily market-based. The agricultural sector continued to employ much of the population, although a growing manufacturing sector, primarily in textiles, accounted for much of the country's economic growth and export earnings. For the year, the population was estimated at approximately 154 million, and gross domestic product growth was estimated at 6.4 percent. No reliable data exists comparing wages and benefits with inflation; however, there was evidence to suggest growing income inequality.

The Government's human rights record remained poor; although there were some improvements in several areas, serious problems remained. In 2002, citizens participated in national government elections, although many observers found serious flaws in their legal framework. Local police used excessive force and committed or failed to prevent extrajudicial killings. Sectarian killings continued to be a problem.

Police abused and raped citizens. Prison conditions remained extremely poor, and police arbitrarily arrested and detained citizens. Some political leaders remained imprisoned or in exile abroad. Case backlogs led to long delays in trials, and lengthy pretrial detention was common. The judiciary was subject to executive and other outside influence. Corruption and inefficiency remained severe problems. The Government violated due process and infringed on citizens' privacy rights. The press was partly free and in some instances, the Government took retaliatory actions against media outlets and journalists; however, media criticism of security forces and the Government continued to increase during the year. The Government imposed some limits on freedom of association, religion, and movement. Governmental and societal discrimination against religious minorities remained a problem. Domestic violence against women, rape, and abuse of children remained serious problems. Honor killings continued; however, new legislation stiffens penalties for honor killings; and criminal procedures for the blasphemy laws and Hudood Ordinances were changed to prevent abuses. Discrimination against women was widespread, and traditional social and legal constraints generally kept women in a subordinate position in society. Trafficking in women and children for the purposes of forced prostitution and bonded labor, and the use of child labor remained widespread. Workers' rights were restricted, and debt slavery remained a problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Police and security forces allegedly were responsible for the deaths of individuals associated with political, extremist, or terrorist groups during the year, and security forces committed extrajudicial killings.

On August 17, unknown gunmen killed three Pakistan People's Party (PPP) activists in Attock while they were campaigning in the district's by-election. Opposition leaders publicly charged that the Attock District mayor and security forces were complicit, but have not presented compelling evidence. Government officials denied the charges, and an investigation was ongoing at year's end.

On August 18, Jamiat Ulema-i-Islam—Fazl ur Rahman Group (JUI-F) member Qari Noor Mohammad, who was arrested on charges of being linked to al-Qa'ida, died in police custody in Faisalabad. JUI-F leaders claimed Mohammad was tortured to death. Police officials denied the allegation, stating that their inquiry concluded Mohammad died from cardiac arrest triggered by natural causes.

The extrajudicial killing of criminal suspects in staged encounters and during torture in custody occurred. Human rights monitors reported that 251 persons were killed in police encounters during the year. Police said that many of these deaths occurred when suspects attempted to escape, resisted arrest, or committed suicide; however, family members and the press said that many of these deaths were staged. Unlike in previous years, there were no reports of police killing suspected criminals to prevent them from implicating police in crimes during court proceedings.

On February 26, police shot and killed Dikhad Butt in Lalamusa. Police said the car in which Butt was riding failed to stop as ordered in connection with a drug investigation; however, family members claimed that police opened fire on the car. Protesters unsuccessfully asked that murder charges be lodged against the officials involved. On March 20, Nazakat Khan died in Khanpur while in police custody. Residents maintained he was tortured to death, while police claimed he committed suicide. Northwest Frontier Province (NWFP) Inspector General of Police (IGP) suspended four police officials in connection with the death. A judicial inquiry was ongoing at year's end. On August 10, police shot and killed Saleem Butt in Lahore following his attempt to flee when police raided his mother's house. On August 13, Syed Qutbuddin Shah died in police custody in Mirpurkhas. Police claimed he committed suicide, but the autopsy showed evidence of torture. Murder charges were pending against five police officials in the death. Two police officers were arrested and charged in the August 2003 killing of Zafar Iqbal. On August 18, one of the two suspects in police custody in Karachi burned to death; the other died 9 days later. Two police officials were suspended for 3 months in the September 2003 death of Samuel Sunil. There were no new developments in other cases reported in 2003.

In August, Tabassum Javed Kalyar was shot and killed by police while attending a demonstration. An assistant Sub Inspector, Mehdi Bhatti, was arrested for Kalyar's killing; however, Bhatti was released without bail 3 days later. Six persons have been charged in the case and an investigation was ongoing at year's end (*see* Section 2.b.). No progress was made in investigating the Ranger killings of Okara protesters in 2002 or 2003 (*see* Section 2.d.).

The Government frequently investigated police officials for extrajudicial killings; however, failure to discipline and prosecute consistently and lengthy trial delays contributed to a culture of impunity.

According to press reports, the Pakistan Armed Forces were responsible during the year for approximately 65 civilian casualties that occurred during its offensives against suspected terrorists hiding in the Federally Administered Tribal Areas (FATA).

There were reports of violence between political factions in the country. For example, the Mohajir Qaumi Movement-Haqiqi (MQM-H), an urban Sindh-based political party that in the past used violence to further its aims, claimed that its rival the Muttahida Qaumi Movement-Altaf (MQM), now a member of the national and provincial governing coalition, used security forces to carry out extrajudicial killings of its members; however, no direct connections between security forces and the killings were made. By year's end, the MQM political leadership had denounced violence and broken ties with its former militant wing, a group that resembled an armed gang carrying out retaliation against rival gangs, including the MQM-H's armed wing. A total of three policemen were suspended for 3 months and were demoted in rank as a result of their involvement with the 2003 killing of Noshad Ansar, the nephew of a regional MQM official. A total of three policemen were suspended for 3 months and were demoted in rank as a result of their involvement with the 2003 killing of Noshad Ansar, the nephew of a regional MQM official.

During the year, killings linked to sectarian, religious extremist, and terrorist groups continued. Also during the year, attacks on houses of worship and religious gatherings resulted in the deaths of nearly 200 persons (*see* Section 2.c.). For example, on January 15, assailants threw grenades at the Pakistan Bible Society office in the Holy Trinity Church in Karachi. A car bomb that exploded 15 minutes later in front of the building injured 16 persons, mainly police. Authorities arrested Shamin Ahmed, a member of the terrorist group Lashkar-e-Jhangvi, in connection with the attack. On March 3, gunmen attacked a Shi'a Muslim procession in Quetta, killing at least 50 and injuring over 100. Security forces killed the assailants. On May 7, a suicide bomber attacked a Shi'a mosque in Karachi, killing 28 and injuring 200. Police charged Lashkar-e-Jhangvi member Gul Hasan, who remained in detention at year's end, as an accomplice in the cases. On October 1, a suicide bomber attacked a Shi'a mosque in Sialkot, killing 31 and injuring more than 40. On October 7, during a gathering in Multan to mark the death of Sunni extremist Maulana Azam Tariq, 2 bomb blasts killed at least 39 and wounded approximately 100. On October 19, police arrested Amjad Shah, from the Shi'a extremist group Sipah-i-Mohammed for the bombing. On October 10, a suicide bomber killed 4 and injured 10 when he detonated a device at the entrance to a Shi'a mosque in Lahore.

Religious extremist and foreign terrorist organizations attempted killings of religious, political, and military figures. On May 30, unknown gunmen in Karachi shot and killed extremist Sunni religious leader Mufti Nizamuddin Shamzai and injured his son and nephew in their vehicle. On June 10, gunmen attacked a convoy carrying the Corps Commander Karachi Lt-Gen Ahsan Saleem Hayat, killing seven soldiers, three policemen, and a pedestrian. On July 30, a suicide bomber attacked the convoy of then-Finance Minister Shaukat Aziz following his address to an election rally in Attock. The bombing killed 9 persons, including the bomber, and injured 30 others. On October 9, unknown gunmen in Karachi killed Deobandi Sunni leader Mufti Jameel Ahmed Khan and an associate in their vehicle.

Terrorists allegedly linked to al-Qa'ida carried out attacks on foreign targets during the year. On March 15, police successfully disarmed a vehicle bomb parked in front of a diplomatic consulate in Karachi. On May 3, a car bomb in Gwadar killed 3 Chinese engineers and injured 11 others. On May 26, 2 successive bomb blasts at a bilateral cultural center in Karachi killed a police guard and injured 32 police and journalists.

The Government condemned these attacks, blaming them on banned extremist organizations aided by foreign terrorist groups. Authorities charged 10 members of the al-Qa'ida-linked Jandullah extremist group in the Pakistan Bible Society bombing, the bombings at the bilateral cultural center, and the attack on the Corps Commander Karachi.

Cases were pending against three prominent Islamist politicians, Allama Sajid Naqvi, Nawab Amanullah Khan Sial, and Allama Syed Sibtain Ali Kazmi, in the 2003 death of Maulana Azam Tariq. Naqvi and Sial were granted bail, while Kazmi remained at large.

There were no arrests in the 2003 attack on a Shi'a mosque in Quetta, attributed to Lashkar-e-Jhangvi, or the 2003 suicide bombing at the Kawish Crown Plaza Shopping Center in Karachi, attributed to gang warfare. A number of junior army officers and militants, arrested in connection with the assassination attempts

against President Musharraf in 2002, remained in detention. Security forces killed the alleged planner of the attack, Amjad Hussain Farooqi, in a gun battle surrounding his arrest.

Honor killings continued to be a problem, and women were the principal victims. Local human rights organizations documented 1,458 cases during the year, and many more likely went unreported. Sindh province had over half of reported cases, although human rights organizations believed the practice also was prevalent in Punjab, NWFP, and Baluchistan. For example, on April 14, Gudshan Ali and his brother-in-law Dilawar killed Ali's wife after accusing her of adultery in Drakhan Village, Sindh. Police arrested Ali, who remained in detention. On June 22, Mukhtiar Ahmed shot and killed his sister Reshman and Abdul Shahoor in Munaabad Village, Sindh after accusing them of adultery. Despite the filing of a complaint with police, no arrest was made. Police arrested several family members in the 2003 death of Afsheen Musarrat; all except her father, Musarrar Hussain, remained in custody. No progress was made in the Muridke case from 2003, nor is any likely. On October 26, the National Assembly adopted a bill increasing penalties for crimes involving matters of honor and placing restrictions on the victims or heirs' right to pardon perpetrators of such crimes; however, human rights groups remained concerned that perpetrators of such crimes, in a limited number of cases, could still be pardoned by the victim or heirs (*see* Section 5).

Unlike in previous years, there were no reports of shelling across the Line of Control in Kashmir, the country's border with India.

b. Disappearance.—There were no reports of politically motivated disappearances; however, police and security forces held prisoners incommunicado and refused to provide information on their whereabouts, particularly in terrorism and national security cases. For example, on June 14, unidentified security force personnel detained a British and Dutch national at Lahore University for alleged ties to al-Qa'ida. Despite High Court petitions from their families, police refused to provide any information on their whereabouts. After holding journalist Kahlwar Mehdi Rizvi in secret detention for nearly 40 days, authorities charged Rizvi with sedition and conspiracy on January 28. Rizvi was released on bail on March 29.

MQM-H claimed that security forces acting on behalf of the MQM routinely held its activists incommunicado. Opposition parties charged that the MQM kidnapped and tortured their activists during the March 28 local government by-elections and the May 12 provincial and national assembly by-elections in Karachi.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the Penal Code prohibit torture and other cruel, inhuman, or degrading treatment; however, security forces tortured and abused persons, often to elicit confessions. Ordinary courts at times dismissed such confessions. Under provisions of the Anti-Terrorist Act, coerced confessions are admissible in Special Courts; however, police had not used this provision to obtain convictions.

Security force personnel continued to torture persons in custody throughout the country. Human rights organizations reported that methods used included beating; burning with cigarettes; whipping the soles of the feet; prolonged isolation; electric shock; denial of food or sleep; hanging upside down; and forced spreading of the legs with bar fetters. Officials from the Human Rights Commission of Pakistan (HRCP) estimated 5,000 cases of police torture annually; the Lawyers for Human Rights and Legal Aid Madadgaar Project recorded 1,101 cases of torture during the year. At times, torture resulted in death or serious injury (*see* Section 1.a.). For example, on January 2, police in Choti Zaireen village, Punjab, beat Saifullah Ghangle with a blunt object until he fell unconscious. Ghangla remained in a coma in Lahore at year's end. Five police officials were charged in the case but none were arrested. On November 21, Naddeem Latif died during torture in custody. Two police officials were arrested in the case and remained in detention at year's end. There were no new developments in the Rasheed Azam case from 2003, nor were any expected.

Unlike in previous years, there were no reports of paramilitary forces or the army torturing or killing farmers for refusing to sign contracts ceding their land rights to the Army in Okara.

The Hudood Ordinances provide for harsh Koranic punishments for violations of Islamic law (Shari'a), including death by stoning and amputation. These punishments, which require a high standard of evidence, were not used during the year.

Special women's police stations with all female staff have been established in response to complaints of custodial abuse of women, including rape. The Government's National Commission on the Status of Women claimed the stations did not function effectively in large part due to a lack of resources. Court orders and regulations prohibit male police from interacting with female suspects, but women were often detained and interrogated at regular stations. Instances of abuse of women in prisons

were less frequent. Sexual abuse of child detainees by police or guards reportedly also was a problem.

There were allegations from several sources that during military operations in South Waziristan security forces committed human rights violations. Security forces destroyed houses of known and suspected militants in accordance with the collective punishment provisions of the Frontier Crimes Regulations (*see* Sections 1.e. and 1.f.). Press reports indicated that 65 civilian casualties occurred during the course of the campaign; however, the Government took care to minimize casualties, including advance notification of impending operations.

Police failed in some instances to protect members of religious minorities—particularly Christians, Ahmadis, and Shi'as—from societal attacks (*see* Sections 2.c. and 5).

Prison conditions were extremely poor, except those for wealthy or influential prisoners. Overcrowding was widespread. According to HRCP, there were 85,000 prisoners occupying 87 jails originally built to hold a maximum of 36,075 persons. Nine prisoners died in the Faisalabad Jail due to a lack of medical assistance.

Inadequate food in prisons led to chronic malnutrition for those unable to supplement their diet with help from family or friends. Access to medical care was a problem. Mentally ill prisoners usually lacked adequate care and were not segregated from the general prison population (*see* Section 5). Foreign prisoners, mostly citizens of African countries, often remained in prison long after their sentences were completed because there was no one to pay for deportation to their home country.

Shackling of prisoners was routine. The shackles used were tight, heavy, and painful, and reportedly led to gangrene and amputation in several cases.

There were reports of prison riots. On September 2, a riot broke out in the Sargodha district jail following the death of an inmate, allegedly from torture. Four inmates were killed and six guards and several inmates were injured. Several guards were briefly held hostage. The riots ended when an autopsy showed that the inmate in question died of a heart attack rather than torture. In the Sialkot prison riot of July 2003, 17 police officials were charged. None had been arrested by year's end.

Female detainees and prisoners were held separately from male detainees and prisoners. According to women's rights NGOs, there were approximately 3,000 women in jail nationwide at year's end. Pretrial detainees often were not segregated from convicted criminals.

On December 5, the Lahore High Court struck down the Juvenile Justice System Ordinance, designed to protect the rights of children, on the grounds of being unconstitutionally vague. At year's end, the judgment remained in abeyance during appeals to the Supreme Court. Child offenders were generally kept in the same prisons as adults, albeit in separate barracks. Children in prison were subjected to the same harsh conditions, judicial delay, and mistreatment as the adult population. Local NGOs estimated 3,000 children were in prison at year's end. Child offenders could alternatively be sent to one of two residential reform schools in Karachi and Bahawalpur until they reached the age of majority. Abuse and torture reportedly also occurred at these facilities. Nutrition and education were inadequate. Family members were forced to pay bribes to visit children or bring them food. Facility staff reportedly trafficked drugs to children incarcerated in these institutions.

Landlords in Sindh, political factions in Karachi, and tribes in rural areas operated private jails.

The Government permitted visits to prisoners and detainees by human rights monitors, family members, and lawyers with some restrictions (*see* Section 1.d.). Visits by local human rights monitors occurred during the year; however, the International Committee of the Red Cross (ICRC) was denied access to alleged terrorist detainees.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, in practice the authorities did not always comply with the law. The District Coordinating Officer (DCO) may order preventive detention for up to 90 days; however, human rights monitors reported instances in which prisoners have been held in preventive detention for up to 6 months. Human rights organizations charged that a number of individuals affiliated with terrorist organizations were held in preventive detention indefinitely. Under the criminal code, police may hold a suspect in investigative detention for 24 hours. A magistrate may permit continued detention for up to 14 days if necessary to complete the investigation. In corruption cases, the National Accountability Board (NAB) may hold suspects indefinitely, provided judicial concurrence is granted every 15 days (*see* Section 1.e.).

The police force was generally considered ineffective, abusive, and corrupt. Failure to punish abuses created a climate of impunity. Police and prison officials frequently

used the threat of abuse to extort money from prisoners and their families. Police charged fees to register genuine complaints and accepted money for registering false complaints. Bribes to avoid charges were commonplace. Persons paid police to humiliate their opponents and to avenge their personal grievances. Corruption was most prominent among Station House Officers (SHO), who ran each precinct. Some reportedly operated arrest for ransom operations and established unsanctioned stations to increase illicit revenue collection.

The 2002 Police Order was not fully implemented during the year. While the central government has allocated funding for the envisioned reforms, the national, provincial, and local police oversight bodies were not operating in most locations, ostensibly due to disputes between provincial and federal officials as to the scope of their authority.

A First Information Report (FIR) is the legal basis for all arrests. Police are to issue FIRs provided complainants offer reasonable proof that a crime has been committed. A FIR allows police to detain a named suspect for 24 hours after which only a magistrate can order detention for an additional 14 days, and then only if police show such detention is material to the investigation. In practice, the authorities did not fully observe these limits on detention. FIRs were frequently issued without supporting evidence as part of harassment or intimidation. Police routinely did not seek magistrate approval for investigative detention and often held detainees without charge until a court challenged them. Incommunicado detention occurred (*see* Section 1.c.). When asked, magistrates usually approved investigative detention without reference to its necessity. In cases of insufficient evidence, police and magistrates colluded to continue detention beyond the 14-day period provided in the law through the issuance of new FIRs. The police sometimes detained individuals arbitrarily without charge or on false charges to extort payment for their release. Some women continued to be detained arbitrarily and sexually abused (*see* Sections 1.c. and 5). Police also detained relatives of wanted criminals in order to compel suspects to surrender (*see* Section 1.f.).

The FATA have a separate legal system, the Frontier Crimes Regulation, which recognizes the doctrine of collective responsibility. Authorities are empowered to detain fellow members of a fugitive's tribe, or to blockade a fugitive's village, pending his surrender or punishment by his own tribe.

The law stipulates that detainees must be brought to trial within 30 days of their arrest. Under both the Hudood and standard criminal codes, there were bailable and non-bailable offenses. Bail pending trial is required for bailable offenses and permitted at a court's discretion for non-bailable offenses with sentences of less than 10 years. In practice, judges denied bail at the request of police, the community, or on payment of bribes. In many cases, trials did not start until 6 months after the filing of charges, and in some cases individuals remained in pretrial detention for periods longer than the maximum sentence for the crime for which they were charged. HRCP estimated that 80 percent of the prison population was awaiting trial.

In November, the Supreme Court granted bail to Asif Zardari, husband of former Prime Minister Benazir Bhutto, in the final of several outstanding cases against him. Zardari was released, but on December 21, a Karachi anti-terrorism court cancelled Zardari's bail in a separate murder case. He was rearrested at the Islamabad airport while on his way to address a political rally; however, after 24 hours of house arrest in Karachi, Zardari was again released and remained free on bail at year's end. The Pakistan People's Party-Parliamentarians (PPPP) claimed all cases against Zardari were political and that the cancellation of his bail in December was ordered by the Government to prevent him from holding marches and rallies in Punjab.

The Government permitted visits to prisoners and detainees by human rights monitors, family members, and lawyers (*see* Section 1.c.), with some restrictions. Courts appointed attorneys for indigents only in capital cases. In some cases persons had to pay bribes to see a prisoner. Foreign diplomats may meet with prisoners when they appear in court and may meet with citizens of their countries in prison visits. Local human rights activists reported few restrictions to their access to prisons.

As in previous years, the Government used preventive detention, mass arrests, and excessive force to quell or prevent protests, political rallies, or civil unrest (*see* Section 2.b.).

Several dozen MQM-H activists, arrested between 1999 and 2003 remained in custody at year's end, some without charge.

According to human rights monitors, 80 to 85 percent of the female prison population was awaiting trial on adultery related offenses under the Hudood Ordinances.

Most of these cases were filed without supporting evidence, trials often took years, and bail was routinely denied.

Special rules apply to cases brought by the NAB or before antiterrorist courts. Suspects in NAB cases may be detained for 15 days without charge (renewable with judicial concurrence) and, prior to being charged, are not allowed access to counsel. Accountability courts may not grant bail; the NAB chairman has sole power to decide if and when to release detainees. Anti-terrorist courts are not to grant bail if the court has reasonable grounds to believe that the accused is guilty. Amendments to the Anti-Terrorist Act that were passed by the National Assembly on October 18 allow security forces without reference to the courts to restrict the activities of terrorist suspects, seize their assets, and detain them for up to a year without charges.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, in practice, the judiciary remained subject to executive branch influence at all levels. Lower courts remained corrupt, inefficient, and subject to pressure from prominent religious and political figures. The politicized nature of judicial promotions enhanced the Government's control over the court system. Unfulfilled judgeships and inefficient court procedures resulted in severe backlogs at both trial and appellate levels. In non-political cases, the High Courts and Supreme Court were generally considered credible.

There are several court systems with overlapping and sometimes competing jurisdictions: Criminal; civil and personal status; terrorism; commercial; family; and military.

The civil, criminal, and family court systems provide for an open trial, the presumption of innocence, cross-examination by an attorney, and appeal of sentences. There are no jury trials. Due to the limited number of judges, the heavy backlog of cases, lengthy court procedures, and political pressures, cases routinely took years, and defendants had to make frequent court appearances. Cases start over when an attorney changes.

The Anti-Terrorist Act allows the Government to use special streamlined courts to try violent crimes, terrorist activities, acts or speech designed to foment religious hatred, and crimes against the State. Cases brought before these courts are to be decided within 7 working days, but judges are free to extend the period as required. Under normal procedures, the High and Supreme Courts hear appeals from these courts. Human rights activists have criticized this expedited parallel system, charging it is more vulnerable to political manipulation.

Special accountability courts try corruption cases (*see* Section 1.d.), including defaults on government loans by wealthy debtors, brought by the NAB. The NAB has not targeted genuine business failures or small defaulters. Accountability courts are expected to try cases within 30 days. In accountability cases, there is a presumption of guilt.

Despite government claims that NAB cases would be pursued independent of an individual's political affiliation, opposition politicians were more likely to be prosecuted (*see* Section 1.d.); however, in November, NAB issued orders for sitting Minister of Kashmir and Northern Areas Faisal Saleh Hayat to appear in court on corruption charges originally filed in 2000. NAB prosecuted no serving members of the military or judiciary.

At the trial level, ordinary criminal courts hear cases involving violations of the Hudood ordinances, which criminalize nonmarital rape (*see* Section 5), extramarital sex, gambling, alcohol, and property offenses. The Hudood ordinances set strict standards of evidence, which discriminate between men and women and Muslims and non-Muslims, for cases in which Koranic punishments are to be applied (*see* Sections 1.c. and 5). For Hudood cases involving the lesser secular penalties, different weight is given to male and female testimony in matters involving financial obligations or future commitments.

All Hudood convictions resulting in sentences of more than 2 years are appealed in first instance to the Federal Shariat Court. The Federal Shariat Court was subject to political and religious pressure. Attorneys in such cases must be Muslims familiar with Koranic law. The Shari'a bench of the Supreme Court hears appeals from the Federal Shariat Court. The Federal Shariat Court may overturn legislation that it judges to be inconsistent with Islamic tenants, but such cases are appealed and finally heard by the Shari'a bench of the Supreme Court.

The Penal Code allows for the victim or his/her family to pardon criminal defendants in exchange for monetary restitution (Diyat) or physical restitution (Qisas). While Diyat was invoked, particularly in NWFP and in honor cases in Sindh, it was not known that Qisas have been used.

Tribal leaders are responsible for justice in the FATA. They conduct hearings according to Islamic law and tribal custom. The accused have no right to legal rep-

resentation, bail, or appeal. The usual penalties consisted of fines. Federal civil servants assigned to tribal agencies oversee proceedings and may impose prison terms of up to 14 years.

Feudal landlords in Sindh and tribal leaders in Patan and Baloch areas continued to hold jirgas in defiance of the established legal system. Such jirgas, particularly prevalent in rural areas, settled feuds and imposed tribal penalties on perceived wrongdoers that could include fines, imprisonment, or even the death sentence. In Pashto areas, such jirgas were held under the outlines of the Pashtun Tribal Code. Under this code, a man, his family, and his tribe are obligated to take revenge for wrongs—either real or perceived—to redeem their honor. Frequently, these disputes arose over women and land, and often resulted in violence (*see* Section 5). There were no developments in the killing of eight family members for failure to provide two girls in marriage in 2003. The eight suspects in the 2002 gang rape of Mukhtaran Bibi in Meerwalla, ordered by the tribal code, remained on death row.

Some political groups claimed their members were marked for arrest based on their political affiliation (*see* Section 1.c. and 1.d.). On April 12, PML-N leader Javed Hashmi was convicted in closed proceedings on charges of sedition and sentenced to more than 20 years in prison. Hashmi was arrested in October 2003 for releasing an anonymous letter allegedly written by army officers that was critical of President Musharraf's leadership. Appeals were ongoing at year's end. Hashmi was permitted visits by numerous opposition and civil society leaders.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law requires court-issued search warrants for property but not persons, in most cases; however, police routinely ignored this requirement and at times stole items during searches. Police were seldom punished for illegal entry. In cases being pursued under the Antiterrorist Act, security forces were allowed to search and seize property related to the case without a warrant.

The Government maintained several domestic intelligence services that monitored politicians, political activists, suspected terrorists, and suspected foreign intelligence agents. Despite a Supreme Court order, credible reports indicated that the authorities routinely used wiretaps and intercepted and opened mail without the requisite court approval.

In accordance with the Anti-Terrorist Act, the Government banned the activities of and membership in several religious extremist and terrorist groups. However, many of the groups that the Government banned still remained active.

While the Government generally did not interfere with the right to marry, local officials on occasion assisted influential families to prevent marriage the families opposed. The Government also failed to prosecute vigorously cases in which families punished members (generally women) for marrying or seeking a divorce against the wishes of other family members. Upon conversion to Islam, women's marriages performed under the rites of their previous religion were considered dissolved, while the marriages of men who converted remained intact (*see* Section 2.c.).

In some cases, the authorities detained relatives in order to force a family member who was the recipient of an arrest warrant to surrender (*see* Section 1.d.).

The Frontier Crimes Regulation, the separate legal system in the FATA, permits collective responsibility, and empowers the authorities to detain innocent members of the suspect's tribe, or to blockade an entire village (*see* Section 1.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and citizens generally were free to discuss public issues; however, some journalists were intimidated and others practiced self-censorship.

There were numerous English and Urdu daily and weekly newspapers and magazines. All were independent. The Ministry of Information controls and manages the country's primary wire service, the Associated Press of Pakistan (APP), which is the official carrier of Government and international news to the local media. The few small privately owned wire services practiced self-censorship. Foreign magazines and newspapers were available, and many maintained in-country correspondents who operated freely. Newspapers were free to criticize the Government, and most did. Condemnation of government policies and harsh criticism of political leaders and military operations were common. The only known retribution against a publication was denial of government advertising for several months to one English-language and one Urdu-language newspaper.

The Government directly owned and controlled Pakistan Television and Radio Pakistan, the only national free electronic broadcasters. The semi-private Shalimar Television Network, in which the Government held the majority ownership stake, expanded its broadcast range during the year. All three reflected the Government point of view in news coverage. Private cable and satellite channels Geo, ARY,

Indus, and Khyber all broadcast domestic news coverage and were critical of the Government. Cable and satellite television with numerous international news stations was generally affordable. Private radio stations existed in major cities, but their licenses prohibited news programming. Some channels evaded this restriction through talk shows, although they were careful to avoid most domestic political discussions. International radio broadcasts, including from the British Broadcasting Corporation and the Voice of America, were available.

The Government arrested, harassed, and intimidated journalists during the year. For example, on January 29, the mayor of Mansehra in NWFP killed Sajid Tanoli, a reporter for the Urdu-language daily Shumaal (North) following a report in which Tanoli accused the mayor of alcohol smuggling. The mayor's brother and son were arrested as accomplices, but he remained at large. On April 21, Pakistani security forces detained and secretly held Afghan national Sami Yousafzai, a Newsweek stringer, who accompanied a western journalist to FATA. Yousafzai was released on June 2. Several local journalists were denied entry to the FATA during the year. On September 9, police in Okara district Punjab detained Sarwar Mujahid, a journalist with the Urdu-language daily Nawa-i-Waqt, following a series of articles he wrote on the ongoing Okara Farms land dispute.

On January 28, authorities brought to court on sedition and conspiracy charges carrying a possible life sentence freelance journalist Khawar Mehdi Rizvi, who was detained along with two western journalists in December 2003 and subsequently held incommunicado for over a month. After reviewing the charges, an anti-terrorism court in Quetta ordered him released on bail on March 29, and he remained free pending trial. In August, the Government dropped the original charges but filed new ones carrying a maximum sentence of 21 years. Trial on these charges was ongoing. Rizvi left the country in December.

Several individual journalists were threatened and intimidated by government agencies for reports that called into question the Government's commitment to fight terrorism. Amir Mir, who was seriously harassed by the Government in 2003 for an article alleging that the Government condoned the presence of a terrorist suspect in Karachi, was able to republish the story in a book without incident.

Extremist groups also harassed and physically assaulted journalists. For example, on February 24, a bomb exploded without causing personal injuries at the Quetta office of the daily Urdu-language newspaper Jang. The separatist Baluchistan Liberation Army claimed responsibility. On February 29, Shi'a protesters ransacked the Karachi Press Club, injuring a guard, in retaliation for disparaging remarks made during a debate aired on the private television station Geo. Police blocked protesters from proceeding to Geo's Karachi studios. There were no developments in the 2003 killing of journalist Ameer Bux Brohi.

The Government directly and indirectly censored the media during the year. For example, on May 9, satellite broadcaster ARY cancelled an interview with opposition politician Shahbaz Sharif due to what its executives termed "huge government pressure." On October 12, Information Minister Sheikh Rashid publicly castigated satellite broadcasters for airing programs "glorifying terrorists" and threatened unspecified action. In response, ARY suspended its popular news program "News and Views," which had aired a sympathetic report on deceased terrorist Amjad Farooqi. The program was restored on October 25. Media outlets also practiced self-censorship.

On August 31, the Government shut down a new Urdu-language paper, the Islamabad Times, before it could bring out its first issue.

Constitutional prohibitions on ridiculing Islam, the armed forces, and the judiciary and blasphemy laws have been used in the past to censor journalists, although there were no reports of the use of these provisions during the year. On November 11, the Peshawar High Court overturned the 2003 blasphemy conviction of Frontier Post copy editor Munnawar Mohsin Ali, and he was released. Many private media organizations were dependent on government advertising revenue, and two major anti-government newspapers were denied government advertising for several months.

Unlike in previous years, there were no reports of the Government denying visas to Indian journalists.

An Anti-Defamation Law passed during the year significantly expanded the definition of and increased penalties for defamatory statements. The Government claimed the Bill's language exempted members of the media, and no member of the media had been prosecuted under the new law.

The Anti-Terrorist Act prohibits the possession or distribution of material designed to foment sectarian hatred or obtained from banned organizations. Court rulings mandate the death sentence for anyone blaspheming against the "prophets." The Penal Code provides for life imprisonment for desecrating the Koran and up to

10 years in prison for insulting another's religious beliefs with the intent to outrage religious feelings (*see* Section 2.c.)

Foreign books must pass government censors before being reprinted. Books and magazines may be imported freely, but are subject to censorship for objectionable sexual or religious content. During the year, an Islamabad magistrate ordered the November 22 issue of Newsweek destroyed due to objectionable photos accompanying an article on the murder of Dutch national Theo Van Gogh.

Obscene literature, a category broadly defined by the Government, was subject to seizure. Dramas and documentaries on previously taboo subjects, including corruption, social privilege, narcotics, violence against women, and female inequality, were broadcast on television; however, some sensitive series have been canceled before being broadcast. During the year, police cracked down on pornographic and unlicensed cinemas in the NWFP.

The Government limited access to the Internet. Access to the South Asian Tribune, an anti-government online magazine, was blocked sporadically.

The Government generally did not restrict academic freedom. However, the atmosphere of violence and intolerance fostered by student organizations, typically tied to religious political parties, continued to limit academic freedom. On some university campuses, well-armed groups of students, primarily from radical religious organizations, had clashes with and intimidated other students, instructors, and administrators over issues such as language, syllabus content, examination policies, grades, doctrines, and dress. These groups frequently facilitated cheating on examinations, interfered with the hiring of staff, controlled those admitted to the universities, and sometimes also controlled the funds of the institutions. Such control generally was achieved through a combination of protest rallies, control of the campus media, and threats of mass violence. In response, university authorities banned political activity on many campuses, but with limited effect.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom "to assemble peacefully and without arms subject to any reasonable restrictions imposed by law in the interest of public order," and the Government generally observed this right, but with some restrictions. While the Government allowed numerous opposition rallies and demonstrations to proceed during the year, at times, it denied permits or imposed restrictions on timing and/or venue. For example, the Jamaat-e-Islami was forced to move its annual September gathering from Lahore to the outskirts of Peshawar when its initial permit application was denied. Ahmadis have been prohibited from holding any conferences or gatherings since 1984 (*see* Section 2.c.). In the wake of renewed sectarian violence in October, the Government banned religious extremist organizations from holding any public gatherings.

Police sometimes used excessive force against demonstrators (*see* Section 1.a.). For example, on August 20, police used tear gas and shot in the air to disperse Christian protestors in Sheikhupura who were angered over the death in custody of Nasir Masih. A woman passerby was injured. The Government did not prosecute any members of the security forces, nor was it likely to do so. On December 21, police used batons and tear gas to disperse a PPPP crowd gathered at the Islamabad International Airport to meet Asif Zardari. The crowd had started to vandalize airport property when it became clear that Zardari had been rearrested. The PPPP claimed police action was designed to prevent its holding rallies and marches in Punjab Province.

The authorities sometimes prevented leaders of religious political parties from traveling to certain areas if the authorities believed their presence would increase sectarian tensions or cause public violence (*see* Section 2.d.).

The Constitution provides for the right of association subject to restriction by government ordinance and law. NGOs were required to register with the Government under the Cooperative Societies and Companies Ordinance of 1960. No prominent NGO reported problems with the Government over registrations during the year. Some continued to operate without registering and were not prosecuted.

c. Freedom of Religion.—The Constitution states that adequate provisions shall be made for minorities to profess and practice their religions freely; however, the Government limited freedom of religion. Islam is the state religion. The Constitution requires that laws be consistent with Islam. All citizens were subject to certain provisions of Shari'a, such as the blasphemy laws. Reprisals and threats of reprisals against suspected converts from Islam occurred. Members of religious minorities were subject to violence and harassment, and police at times refused to prevent such actions or to charge persons who committed them. The President and the Prime Minister must be Muslim. The Prime Minister, federal ministers, and ministers of state, as well as elected members of the Senate and National Assembly (in-

cluding non-Muslims) must take an oath to "strive to preserve the Islamic ideology, which is the basis for the creation of Pakistan" (*see* Section 3).

Religious groups must be approved and registered; there were no reports that the Government refused to register any group.

The Constitution declares the Ahmadi community, which considers itself a Muslim sect, to be a non-Muslim minority. Provisions of the penal code prohibited Ahmadis from engaging in any Muslim practices, including using Muslim greetings, referring to their places of worship as mosques, reciting Islamic prayers, and participating in the Hajj or Ramadan fast. Ahmadis are prohibited from proselytizing, holding gatherings, or distributing literature. Government forms, including passport applications and voter registration documents, require anyone wishing to be listed as a Muslim to denounce the founder of the Ahmadi faith. Ahmadis were frequently discriminated against in government hiring and in admission to government schools.

Complaints under the blasphemy laws, which prohibit derogatory statements or action against Islam, the Koran, or the prophets, were used to settle business or personal disputes and to harass religious minorities or reform-minded Muslims. Most complaints were filed against the majority Sunni Muslim community. Most blasphemy cases were ultimately dismissed at the appellate level; however, the accused often remained in jail for years awaiting a final verdict. Trial courts were reluctant to release on bail or acquit blasphemy defendants for fear of violence from religious extremist groups. On October 26, the National Assembly passed a bill that revises the complaint process and requires senior police officials' review of such cases in an effort to eliminate spurious charge. During the year, there were 8 persons convicted under the blasphemy laws and another 50 ongoing cases.

All religious groups experienced bureaucratic delays and requests for bribes when attempting to build houses of worship or to obtain land. Ahmadis were prevented from building houses of worship. For example, in Taltay Aali, Gujranwla District, the Ahmadi community was barred from completing construction, following attacks on the site by local Muslims.

"Islamiyyat" (Islamic studies) is compulsory for all Muslim students in state-run schools. Students of other faiths are exempt from such classes; however, in practice, teachers induced many non-Muslim students to complete Islamic studies.

Although there were few Jewish citizens in the country, anti-Semitic sentiments appeared to be widespread, and anti-Semitic and anti-Zionist press articles were common.

Sectarian violence between Sunni and Shi'a extremists continued during the year. Attacks on mosques and religious gatherings resulted in over 100 deaths (*see* Sections 1.a. and 5). Unidentified gunmen allegedly linked to Sunni extremist groups continued to kill Shi'a professionals, primarily doctors and lawyers, during the year. Investigations into the 2003 attack on a Shi'a mosque in Quetta were ongoing.

Christians and Ahmadis were the targets of religious violence. On August 21, unknown assailants shot and killed Barkatullah Mangla, an Ahmadi advocate, at his residence in Sargodah. No one was arrested in the case. On May 2 in a Faisalabad hospital, Javed Anjum, a 19-year-old Christian, died. Anjum had drunk water from a tap at a local madrassa and was held by the teachers and students for 5 days and allegedly beaten. Subsequently, he was transferred to police and charged with theft. Because of his injuries, police later transferred him to the hospital in Faisalabad where he died. No arrests had been made by year's end. On August 3, a Christian, Tasneem Dean, and his family relocated from their home in Asafabad for fear of violence from the local Muslim community. Dean's 11-year-old daughter had accidentally thrown her father's antique copy of the Koran in the garbage. While the community's Islamic religious leaders accepted the Deans' explanation that the incident was an accident, local authorities advised Dean to depart, as they could not ensure his safety from extremist elements.

Islamic religious leaders frequently harassed the Ahmadi community and organized marches, conferences, and demonstrations against it. For example, on July 23, several thousand Sunni Muslims demonstrated in the Ahmadi-majority city of Chenab Nagar (Rabwah) over a decision to relocate the local police station. The station, which had included a small mosque, had been constructed on land on loan from the Ahmadi community. The local Islamic leadership objected to the return of the mosque site to the Ahmadi owners. On September 6, the provincial government, bowing to public pressure, ordered the site returned to police.

On September 25, a Muslim mob attacked the Sikh Gurudwara Junam Asthan in the village of Nankana Sahib, causing damage to the shrine. A government report, which stated that the land on which the Guru Nanak Degree College was located rightfully belonged to the Gurudwara, angered the mob. The National Assembly called on the Punjab provincial government to prosecute those responsible. Several persons were arrested in connection with the case.

The Ahmadi, Christian, Hindu, and Shi'a Muslim communities reported significant discrimination in employment and access to education, including at government institutions.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the Government limited them in practice. The Government at times prevented political party leaders and religious leaders from traveling to certain parts of the country (*see* Section 2.b.). Special permission was required to enter certain restricted areas, including parts of the FATA.

Law prohibited travel to Israel. Government employees and students must obtain "no objection" certificates before traveling abroad, although this requirement rarely was enforced against students. Persons on the publicly available Exit Control List (ECL) are prohibited from foreign travel. There were approximately 2,153 names on the ECL. While the ECL was intended to prevent those with pending criminal cases from traveling abroad, no judicial action is required to add a name to the ECL. Those on the list have the right to appeal for removal to the Secretary of Interior and the Advocate General of the Senior Judiciary. Courts have intervened to have opposition leaders removed from the ECL.

The Constitution prohibits forced exile; however, former Prime Minister Nawaz Sharif remained in exile in Saudi Arabia, in accordance with a 2000 agreement with the Government. Former Prime Minister Benazir Bhutto remained in self-imposed exile. She faces a number of corruption and contempt of court charges should she return to the country. In May, Shahbaz Sharif, PML-N President and brother of the deposed former Prime Minister, returned to Saudi Arabia only 2 hours after he landed in Lahore. Sharif asserted that he was forced into exile.

According to press reports there were approximately 1.5 million displaced Kashmiris, from Indian-held Kashmir, in the country. Under the law, the Kashmiris are entitled to the same rights as citizens.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol; however, the Government has a system to protect refugees. The Government provided protection against refoulement, the return of persons to a country where they feared persecution. Since 1979, the Government has provided temporary protection to millions of refugees from neighboring Afghanistan. The Government maintained there were 3.2 million Afghan refugees in the country at year's end. The Government continued to work closely with the United Nations High Commission for Refugees (UNHCR) to provide support to this population. The Government cooperated with UNHCR in the voluntary repatriation of 384,032 Afghan refugees during the year.

Police in some cases demanded bribes from Afghan refugees. There were credible reports that intelligence communities harassed refugees during their search for al-Qa'ida. Some women refugees who accepted jobs with NGOs reported harassment from Taliban sympathizers in their own community. Refugees faced societal discrimination and abuse from local communities, which resented economic competition and blamed refugees for high crime rates. Single women, female-headed households, and children working on the streets were particularly vulnerable to abuse. In November, Afghan refugees attacked health clinics in the Girdi Jungle refugee camps run by Save the Children after desecrated Korans were found outside the buildings. Save the Children temporarily suspended its operations in the camp until the Government provided enhanced security.

Approximately 300,000 Biharis, Urdu-speaking non-Bengali Muslims from Bangladesh, continued to campaign for resettlement in the country.

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

The Constitution provided citizens with the right to change their government; however, this right was restricted in practice. President Musharraf has controlled the Government since 1999 and dominated the Pakistan Muslim League (PML) federal coalition government. International observers deemed the 2002 national elections somewhat free and fair, although they noted serious flaws.

Chief of Army Staff General Pervez Musharraf assumed the presidency by decree in 2001 following the military overthrow of the elected government of Prime Minister Nawaz Sharif in 1999. The Supreme Court later sanctioned the coup; however, it directed Musharraf to restore elected government within 3 years. In 2002, President Musharraf held a nationwide referendum on a 5-year extension of his presidency and claimed to have received a 97.5 percent vote in favor of the referendum.

However, some independent observers found evidence of widespread fraud and coerced voting. The Supreme Court ruled that the referendum was constitutional; however, the court allowed the results to be revisited by an elected parliament. In December 2003, the National Assembly affirmed Musharraf as President until 2007.

Elections were held for the National and Provincial Assemblies in October 2002. Musharraf's Legal Framework Order (LFO) created a number of new candidate eligibility prerequisites. International and domestic observers found the election somewhat free and fair, but identified serious flaws in the election framework and tampering with results in certain districts. After a number of floor crossings, which the opposition claim were induced, the PML was able to form a governing coalition in concert with the MQM, smaller parties, and dissident groups from opposition parties. In February 2003, indirect Senate elections resulted in a majority for the governing coalition. In December 2003, the Parliament incorporated a large part of the LFO into the 1973 Constitution as its 17th Amendment. The Amendment affirms Musharraf's presidency until 2007 and exempts him from a prohibition on holding two offices of state until the end of 2004, thereby allowing him to continue as Chief of Army Staff. The Amendment allows the President to dissolve Parliament, but requires him to obtain the consent of the Supreme Court within 30 days. Opposition parties say the amended constitution legitimizes the powerful role of the military in politics, and transfers significant powers from the prime ministership to the previously ceremonial presidency. On October 15, the National Assembly, over objections from all opposition parties, approved a bill that extends Musharraf's exemption to hold two offices through 2007. On December 30, Musharraf announced that he would continue as Chief of Army Staff.

The National Assembly and the Cabinet functioned normally during the year. On June 26, Prime Minister Mir Zafarullah Khan Jamali resigned, and was replaced on an interim basis by Chaudhry Shujaat Hussain. On August 27, the National Assembly elected the PML candidate, former Finance Minister Shaukat Aziz, as Prime Minister, although all opposition parties boycotted the vote because their candidate, PML(N) leader Javed Hashmi, was not allowed to appear at the Assembly, having been convicted of sedition. Opposition parties criticized Aziz's election to the National Assembly, claiming his two by-election victories to the National Assembly on August 18 were fraudulent. Domestic and international observers found irregularities but concluded the elections were generally free, fair, and credible.

President Musharraf continued to back reforms proposed by the National Reconstruction Bureau to empower local governments. In 2001, non-partisan elections for local government assemblies were held in 97 districts. Directly elected union councilors elected district nazims (mayors) and members of district councils. According to local and international election observers, the elections were generally free and fair. However, opposition parties accused the Government of intervening to ensure that pro-Musharraf candidates were elected.

The Government permitted all existing political parties to function. The Government forced the PPP-P and PML-N to elect leaders other than former P.M.s Benazir Bhutto and Nawaz Sharif by refusing to register any parties whose leaders had a court conviction. The amended Political Parties Act bars any person from becoming Prime Minister for a third time, effectively barring Benazir Bhutto and Nawaz Sharif.

The opposition claimed the Government convicted two of its leaders on politically motivated charges during the year. On April 12, PML-N leader Javed Hashmi was convicted in closed proceedings on charges of sedition and sentenced to more than 20 years in prison (*see* Section 1.e.). Former PPP National Assembly Speaker Yousaf Raza Gillani was sentenced to 10 years in prison on September 18 on charges of abuse of office. Gillani was accused of using his position as Speaker to obtain jobs for relatives and supporters.

The Government ban on political party activities in the FATA continued. Candidates were not allowed to register by political party, and political party rallies were not allowed. Several political parties campaigned covertly during the 2002 national elections.

Corruption among executive and legislative branch officials remained a problem during the year, and public perception of corruption was widespread.

The National Accountability Ordinance (NAO) prohibits those convicted of corruption by the NAB from holding political office for 10 years (*see* Section 1.d.). The NAB disproportionately targeted opposition politicians for prosecution and did not prosecute members of the military.

While fairly restrictive regarding the information that citizens are entitled to, a Freedom of Information Ordinance became law after being enacted by Presidential Ordinance in 2002.

Inhabitants of the Northern Areas (Gilgit and Baltistan) are not covered under the Constitution and have no representation in the federal legislature. An appointed civil servant administered these areas; an elected Northern Areas Council serves in an advisory capacity. Members of the Azad Kashmir assembly and government are required to claim allegiance to Pakistan before they can stand in elections. Some Kashmiri political parties advocated for an independent Kashmir and have therefore not been allowed to stand in provincial elections.

There were 73 women in the 342-seat National Assembly; there were five women in the Cabinet; and none in the Supreme Court. Sixty seats in the National Assembly are reserved for women, as are 128 of the 758 seats in provincial assemblies and one-third of the seats in local councils. In some districts, social and religious conservatives prevented women from becoming candidates; however, in several districts, female candidates were elected unopposed. Women participated in large numbers in elections, although some were dissuaded from voting by their families, religious and tribal leaders, and social customs. Local leaders in the Lower Dir District in the NWFP did not allow women to contest the local government by-elections in March. As a result of this agreement and similar ones from the past, 196 of 204 seats reserved for women in the local council remained vacant. A similar ban was also agreed in part of Swabi and other NWFP districts. Provincial chief ministers have named women to serve in their cabinets.

There were 10 minorities in the 342-seat legislature; there was none in the Cabinet; and there was 1 on the Supreme Court. All 10 minority members of the National Assembly hold reserved religious minority seats. Such seats are apportioned to parties based on the overall percentage of elected seats held in parliament. Previous direct elections for minority seats have been abolished. Under the Constitution, minorities also have reserved seats in the provincial assemblies (*see* Section 2.c.). The Government requires voters to indicate their religion when registering.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. They are required to be registered, although this requirement was not generally enforced. Government officials often were cooperative and responsive to their views. Human rights groups reported that they generally had good access to police stations and prisons. The HRCP continued to investigate human rights abuses and sponsor discussions on human rights issues during the year.

International observers were permitted to visit the country and travel freely. The Government generally cooperated with international governmental human rights organizations. The ICRC had a delegation in country.

The National Assembly Standing Committee on Law, Justice, and Human Rights held hearings on a number of issues during the year, including honor crimes, the Anti-Defamation Law, the Blasphemy Law, and the Hudood Ordinance. While the Committee served as a useful forum to raise public awareness of such issues, its final action generally adhered to government policy. The Senate Standing Committee on Law, Justice, and Human Rights debated a number of issues of significant concern during the year and published a well-regarded investigatory report into the 2002 and 2003 dispute at Okara Farms in which security force personnel were implicated in abuse. The Parliamentarians Commission for Human Rights, an interparty caucus of parliamentarians, was active in lobbying for reform in key areas.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equality before the law for all citizens and broadly prohibits discrimination based on race, religion, caste, residence, or place of birth; however, in practice there was significant discrimination based on these factors.

Women.—Domestic violence was a widespread and serious problem. Husbands frequently beat, and occasionally killed, their wives, and often newly married women were abused and harassed by their in-laws. Dowry and family-related disputes often resulted in death or disfigurement through burning or acid. For example, on July 9, in Latifabad, Musa Khan threw acid on the face of his estranged wife Basira. A case against him was pending at year's end. During the year, there were 193 cases of stove deaths, many of these related to disputes with in-laws.

According to the HRCP, one out of every two women was the victim of mental or physical violence. The National Commission on the Status of Women has called for specific domestic violence legislation. In its absence, abusers may be charged with assault, but cases rarely were filed. Police and judges were reluctant to take action in domestic violence cases, viewing it as a family problem. Battered women were usually returned to their abusive family members. Women were reluctant to

pursue charges because of the stigma attached to divorce and their economic and psychological dependence on relatives. Relatives were reluctant to report abuse for fear of dishonoring the family reputation.

The Government has criticized violence against women. Its Crisis Center for Women in Distress refers abused women to NGOs for assistance. During the year, the NGO Struggle for Change, which operated a shelter for abused women, provided rehabilitation assistance (shelter, employment counseling, and legal aid) to 67 women. An additional 157 women received legal or financial assistance. Provincial governments operated shelters for women in distress at the district level. In some cases, managers of such shelters have abused women in their care. For example, in August, the manager of the shelter in Hyderabad was suspended after three women at the shelter were tortured when they refused to work for her as prostitutes. The case was pending at year's end.

Rape, other than by one's spouse, is a criminal offense. One cannot be prosecuted for marital rape or for rape in cases where a marriage between the perpetrator and victim has been contracted but not solemnized. Although rape was widespread, prosecutions were rare. It is estimated that less than one-third of rape cases were reported to the police. Police were at times implicated in the crime (*see* Section 1.c.).

Many rape victims were pressured to drop charges. Police and prosecutors often threatened to charge a victim with adultery or fornication if she could not prove the absence of consent, and there were cases in which rape victims were jailed on such charges. The standard of proof for rape set out in the Hudood Ordinances is based on whether the accused is to be subjected to Koranic or secular punishment. In cases of Koranic punishment, which can result in public flogging or stoning, the victim must produce four adult male Muslim witnesses to the rape or a confession from the accused. No Koranic punishment has ever been applied for rape. The standards of proof are lower for secular punishment, which can include up to 25 years in prison and 30 lashes. Such punishment was applied. Courts, police and prosecutors, at times, refused to bring rape cases when Koranic standards of evidence could not be met.

Police frequently discouraged women from bringing rape charges and often abused or threatened the victim, telling her to drop the case, especially when bribed by the accused. Police requested bribes from some victims prior to lodging rape charges, and investigations were often superficial. Medical personnel were generally untrained in collection of rape evidence and were at times physically or verbally abusive to victims, accusing them of adultery or fornication. Women accused of adultery or fornication were forced to submit to medical exams against their will even though the law requires their consent. Judges were reluctant to convict rapists, applied varying standards of proof, and, at times, threatened to convict the victim for adultery or fornication rather than the accused for rape. Families and tribes, at times, killed rape victims or encouraged them to commit suicide.

Husbands and male family members often brought spurious adultery and fornication charges against women under the Hudood Ordinances. Even when courts ultimately dismissed charges, the accused spent months, sometimes years, in jail and saw her reputation destroyed. The Government's National Commission on the Status of Women advocated for the repeal of the Hudood Ordinances. On October 26, the National Assembly adopted legislation that requires senior police officials to evaluate the merits of adultery and fornication allegations and requires a court order before a woman can be arrested on such charges.

Honor killings and mutilations occurred during the year (*see* Section 1.a.). Women were often the victims at the hands of their husbands or male relatives. Authorities reported 1,261 honor crimes in the 12 months after June 2003, with the majority in Sindh. The practice was also common in Punjab and among tribes in Baluchistan, NWFP, and FATA. On October 26, the National Assembly adopted legislation that provides for additional penalties for all crimes involving honor and that restricts the right of victims or heirs to pardon perpetrators in exchange for restitution.

The estimated 100,000 Bohra Muslims in country practiced female genital mutilation (FGM). While no statistics on the prevalence of FGM among the Bohras exist, the practice reportedly has declined.

Sexual harassment was a widespread problem. While the Pakistan Penal Code prohibits harassment, prosecution was rare.

The Constitution prohibits discrimination on the basis of sex; however, in practice, this provision was not enforced. Women faced discrimination in family law, property law, and in the judicial system (*see* Section 2.c.). The Hudood Ordinances create judicial discrimination against women. Women's testimony in cases involving proposed Koranic punishment was considered invalid or discounted significantly. In other cases involving property matters or questions of future obligations, a woman's testimony is equal to half that of a man.

Family law provides protections for women in cases of divorce, including requirements for maintenance, and lays out clear guidelines for custody of minor children and their maintenance. In practice, many women were unaware of these legal protections or unable to obtain legal counsel to enforce them. Divorced women were often left with no means of support and were ostracized by their families. While prohibited by law, the practice of buying and selling brides continued in rural areas. Women are legally free to marry without family consent, but women who did so were often ostracized or were the victims of honor crimes.

Inheritance law discriminates against women. Female children are entitled to only half the inheritance of male children. Wives inherit only one-eighth of their husband's estate. Women often received far less than their legal inheritance entitlement. In rural Sindh, landowning families continued the practice of "Koranic marriages" in an effort to avoid division of property. Property of women married to the Koran remains under the legal control of their father, or eldest brother, and such women are prohibited from contact with any male over 14.

Women faced significant discrimination in employment and were frequently paid less than men for similar work. In many rural areas of the country, strong societal pressure prevented women from working outside the home. Some tribes continued the traditional practice of sequestering women from all contact with males other than relatives.

The Government's Ministry for the Advancement of Women lacked sufficient staff and resources to function effectively. Continuing government inaction in filling vacant seats on the National Commission for the Status of Women hampered its efficacy.

Numerous women's rights groups such as the Progressive Women's Association, Struggle for Change, and Aurat Foundation, were active in urban areas. Primary issues of concern included domestic violence, the Hudood Ordinances, and honor crimes.

Children.—The Government does not demonstrate a strong commitment to children's rights and welfare through its laws and programs. There is no federal law on compulsory education. Public education is free; however, fees were charged for books, supplies, and uniforms. Public schools, particularly beyond the primary grades, were not available in many rural areas, leading parents to use the parallel private Islamic school (madrassa) system. In urban areas, many parents sent children to private schools due to the lack of facilities and poor quality of education offered by the public system.

According to a foreign aid organization, out of 18 million children between ages 5 and 9, only 42 percent were in school. Less than half of children who enrolled completed more than 5 years of education. Out of every 100 children who enrolled, only 6 complete grade 12. The national literacy rate of 38 percent showed a significant gap between males (50 percent) and females (24 percent) due to historical discrimination against educating girls. While anecdotal evidence suggested increasing female participation in education, such discrimination continued, particularly in rural areas.

Madrassas served as an alternative to the public school system in many areas. Many madrassas failed to provide an adequate education, focusing solely on Islamic studies. Graduates were often unable to find employment. A few madrassas, particularly in the Afghan border area, reportedly continued to teach religious extremism and violence. The Government continued its efforts to modernize madrassa education during the year. An agreement was reached with the country's five independent madrassa boards to register the 85 percent of madrassas under their control and to introduce a modern educational curriculum. Government funding has been allocated in the budget to assist with teacher training.

At the vast majority of madrassas, students were reasonably well-treated. However, press reports claimed that there were some madrassas where children were confined illegally, kept in unhealthy conditions, and physically or sexually abused.

Child health care services remained seriously inadequate. According to the National Institute of Child Health Care, more than 70 percent of deaths between birth and the age of 5 years were caused by easily preventable ailments such as diarrhea and malnutrition. While boys and girls had equal access to government facilities, families were more likely to seek medical assistance for boys.

Child abuse was widespread. According to child rights NGOs, abuse was most common within families. In rural areas, poor parents sold children as bonded laborers (*see* Section 6.d.) and at times, sold daughters to be raped by landlords.

Trafficking and commercial sexual exploitation were problems (*see* Section 5, Trafficking).

Child labor was a significant problem (*see* Section 6.d.).

NGOs like Sahil and Rozan worked on child labor, child sexual abuse, and child trafficking. NGOs played an important role in providing counseling and medical services to victims and in raising awareness of these problems.

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking in persons was a serious problem. All forms of trafficking are prohibited under the Prevention and Control of Human Trafficking, Ordinance 2002, and maximum penalties range from 7 to 14 years' imprisonment plus fines. The Government arrested 67 and prosecuted 39 under the ordinance during the year. The Federal Investigation Agency (FIA) had primary responsibility for combating trafficking. The Government established a dedicated Anti-Trafficking Unit in the FIA during the year. An Inter-Ministerial Committee on Human Trafficking and Smuggling coordinated federal efforts. The Government assisted other countries with international investigations of trafficking.

Although no accurate statistics on trafficking existed, the country was a source, transit, and destination country for trafficked persons. Women and girls were trafficked from Bangladesh, Afghanistan, Iran, Burma, Nepal, and Central Asia for forced commercial sexual exploitation and bonded labor in the country based on erroneous promises of legitimate jobs. In a similar fashion, men and women were trafficked from the country to the Middle East to work as bonded laborers or in domestic servitude. Upon arrival, both groups had passports confiscated and were forced to work to pay off their transportation debt. Although the practice declined, families continued to sell young boys between ages 3 and 10 for use as camel jockeys in Middle Eastern countries. Women and children from rural areas were trafficked to urban centers for commercial sexual exploitation and labor. In some cases, families sold these victims into servitude, while in other cases they were kidnapped. Women were trafficked from East Asian countries and Bangladesh to the Middle East via the country. Traffickers bribed police and immigration officials to facilitate passage. During the year, authorities prosecuted 17 governmental officers and arrested 3 FIA inspectors.

The Government rescued some kidnapped victims. In the 14 months following June 2003, the Overseas Pakistani Foundation and the Ansar Burney Welfare Trust repatriated 5,700 citizens trafficked to the Middle East. The Government sponsored shelters and training programs for actual and potential trafficking victims. There were 276 detention centers where women were sheltered and given access to medical treatment, limited legal representation, and some vocational training. The Government provided temporary residence status to foreign trafficking victims. The FIA and the International Organization for Migration held training and seminars on trafficking for government officials and NGOs during the year. The Interior Minister was personally engaged in such efforts. Very few NGOs dealt specifically with trafficking; however, many local and provincial NGOs provided shelter to victims of trafficking and those at risk for trafficking.

Police often treated trafficking victims as criminals, charging them with immigration law violations. Police remained reluctant to assist foreign trafficking victims in filing charges. Women victims who were forced into prostitution at times feared prosecution for adultery and fornication if they pursued cases. Foreign victims, particularly Bangladeshis, faced difficulties in obtaining repatriation to their home countries. Women trafficked abroad and sexually exploited faced societal discrimination on their repatriation.

A few NGOs held workshops on trafficking during the year, and the Government and NGOs worked to publicize the plight of camel jockeys and discourage the continuation of the practice.

Persons With Disabilities.—The Government has not enacted legislation or otherwise mandated access to buildings or government services for persons with disabilities. Families cared for the vast majority of persons with physical and mental disabilities. However, in some cases, these individuals were forced into begging; organized criminals took much of the proceeds. There is a legal provision requiring public and private organizations to reserve at least 2 percent of their jobs for qualified persons with disabilities. Organizations that do not wish to hire persons with disabilities instead can give a certain amount of money to the government treasury, which uses funds for persons with disabilities. This obligation was rarely enforced. The National Council for the Rehabilitation of the Disabled provided some job placement and loan facilities. Mentally ill prisoners normally lacked adequate care and were not segregated from the general prison population (*see* Section 1.c.).

Other Societal Abuses and Discrimination.—Homosexual intercourse is a criminal offence; however, prosecution was rare. Homosexuals did not openly reveal their sexual orientation, and there were no allegations during the year of discrimination on the basis of sexual orientation.

Those suffering from HIV/AIDS faced broad societal discrimination. While the Government has launched education and prevention campaigns, these have done little to protect victims.

The Shi'a, Christian, Hindu, and Ahmadi communities all faced discrimination and societal violence (*see* Section 2.c.).

Section 6. Worker Rights

a. The Right of Association.—The Industrial Relations Ordinance (IRO) provides industrial workers the right to form trade unions. The Essential Services Maintenance Act (ESMA), which applies to the security forces, most of the civil service, health care workers, and safety and security personnel at petroleum companies, airports, and seaports, was often invoked to limit or ban strikes or curtail collective bargaining rights. Agricultural workers, non-profit workers, and teachers, among others, are not afforded the right to unionize. According to government estimates, union members were approximately 10 percent of the industrial labor force and 3 percent of the total estimated work force; however, unions claimed that the number of union members was underestimated.

b. The Right to Organize and Bargain Collectively.—In those sectors covered by the IRO, unions were allowed to conduct their activities without government interference. The IRO protects the right to collective bargaining subject to restrictions, but limits the right of unions to strike. The IRO allows only one union to serve as the collective bargaining agent within a given establishment, group of establishments, or industry. In cases where more than one union exists, the IRO establishes a secret balloting procedure to determine which union shall be registered as agent.

Legally required conciliation proceedings and cooling-off periods constrain the right to strike, as does the Government's authority to end any strike that may cause "serious hardship to the community," prejudice the national interest, or has continued for 30 days. The Government can and has prohibited all strikes by public utility services under the IRO. The law prohibits employers from seeking retribution against leaders of a legal strike and stipulates fines for offenders. The law does not protect leaders of illegal strikes. Several small strikes occurred during the year. For example, in October, Pakistan Telecommunications workers' unions held intermittent strikes of brief duration in cities around the country demanding increased wages and better regulation of the use of contract workers. The strikes ceased after the Government termed them illegal.

National labor laws require the Government to determine every 6 months whether collective bargaining is to be allowed. In cases where collective bargaining was prohibited, special wage boards decided wage levels. Such boards were established at the provincial level and were composed of representatives from industry, labor, and the provincial labor ministry. Unions generally were dissatisfied with the boards' findings. Disputes were adjudicated before the National Industrial Relations Commission.

The estimated 12,500 employees working in Pakistan's three Export Processing Zones (EPZs) are exempted by the ESMA from the protection and right to form trade unions provided by the IRO. The Export Processing Zone Authority drafts labor laws within the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The Constitution and law prohibit forced or bonded labor, including by children; however, the Government did not enforce these prohibitions effectively. The Bonded Labor System (Abolition) Act (BLAA) outlaws bonded labor, cancels all existing bonded debts, and forbids lawsuits for the recovery of such debts. The Act makes bonded labor by children punishable by up to 5 years in prison and up to $833 (Rs. 50,000) in fines.

Conservative estimates put the number of bonded workers at several million. Such labor was common in the brick, glass, carpet, and fishing industries, and was found among agricultural and construction workers in rural areas. A large proportion of bonded laborers were low-caste Hindus, or Muslim and Christian descendants of low-caste Hindus. Bonded laborers were often unable to determine when their debts were fully paid. Those who escaped often faced retaliation from former employers. Some bonded laborers returned to their former status after being freed due to a lack of alternative livelihoods. Although the police arrested violators of the law against bonded labor, many such individuals bribed the police to release them. Human rights groups reported that landlords in rural Sindh maintained as many as 50 private jails housing some 4,500 bonded laborers. Ties between such landlords and influential politicians hampered effective elimination of bonded labor.

The Constitution and the law prohibit slavery; however, human rights groups claimed that in remote areas of rural Sindh, bonded agricultural labor and debt slavery continued.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Government has adopted laws and promulgated policies to protect children from exploitation in the workplace; however, enforcement of child labor laws was lax and child labor was a serious problem. The Ministry of Labor has identified 35 hazardous forms of child labor, including street vending, surgical instrument manufacturing, deep-sea fishing, leather manufacturing, brick making, and carpet weaving, among others. Child labor in agriculture and domestic work was also common.

Forced and bonded labor, sexual exploitation, and the trafficking of children occurred (*see* Section 5).

The Employment of Children Act prohibits the employment of children under age 14 years in factories, mines, and other hazardous occupations and regulates their conditions of work, e.g. no child is allowed to work overtime or at night; however, there were few child labor inspectors in most districts, and the inspectors often had little training, insufficient resources, and were susceptible to corruption. By law, inspectors may not inspect facilities that employ less than 10 persons, where most child labor occurs. Hundreds of convictions were obtained for violations of child labor laws, but low fines levied by the courts—ranging from an average of $6 (Rs. 364) in the NWFP to an average of $121 (Rs. 7,280) in Baluchistan—were not a significant deterrent. The Employment of Children Act allows for fines of up to $333 (Rs. 20,000). Penalties often were not imposed on those found to be violating child labor laws.

The International Labor Organization—International Program for the Elimination of Child Labor (ILO-ILEC) continued programs in the carpet weaving, surgical instrument, rag picking, and deep sea fishing industries and launched a Time Bound Program for the Elimination of the Worst Forms of Child Labor. Working with industries and the Government, ILO-IPEC used a combination of monitoring, educational access, rehabilitation, and family member employment to transition children out of these industries. An ILO-IPEC program to eliminate child labor in the soccer ball manufacturing industry was completed and deemed a success.

e. Acceptable Conditions of Work.—The national minimum wage for unskilled workers was $42 (Rs. 2,500) per month. It applies only to industrial and commercial establishments employing 50 or more workers. The national minimum wage did not provide a decent standard of living for a worker and family. Additional benefits required by the Federal Labor Code include official government holidays, overtime pay, annual and sick leave, health care, education for workers' children, social security, old age benefits, and a worker's welfare fund.

Federal law provides for a maximum workweek of 48 hours (54 hours for seasonal factories) with rest periods during the workday and paid annual holidays. These regulations did not apply to agricultural workers, workers in factories with fewer than 10 employees, domestic workers, and contractors.

Health and safety standards were poor. There was a serious lack of adherence to mine safety and health protocols. For example, mines often only had one opening for entry, egress, and ventilation. Workers could not remove themselves from dangerous working conditions without risking loss of employment.

Provincial governments have primary responsibility for enforcing all labor regulations. Enforcement was ineffective due to limited resources, corruption, and inadequate regulatory structures. Many workers were unaware of their rights.

SRI LANKA

Sri Lanka is a republic with an active multiparty system. The popularly elected president, reelected in 1999 to a second 6-year term, and the 225-member Parliament, elected during the year for a 6-year term, share constitutional power. The April parliamentary election was deemed largely free and fair by the European Union Election Observation Mission, except in the north and east, where widespread voter impersonation and multiple voting allegedly occurred. From 1983 until 2001, the Government fought the Liberation Tigers of Tamil Eelam (LTTE), a terrorist organization that advocated a separate ethnic Tamil state in the north and east of the country. In 2001, the Government and the LTTE each announced unilateral cease-fires and signed a formal cease-fire accord in 2002. In April 2003, after participating in six rounds of talks facilitated by the Norwegian Government, the LTTE suspended the negotiations. During the year, both parties violated the 2002 accord, although the LTTE's violations were more numerous and more serious. The judiciary is independent; however, some NGOs claimed that higher levels of the judiciary were subject to political pressure and that corruption, particularly at lower

levels, was a problem. Long trial delays and a lack of training and resources for the judiciary further complicated the judicial process.

The Ministry of Internal Security controls the 66,000-member police force, which is responsible for internal security in most areas of the country. The Ministry of Defense controls the 112,000-member Army, the 27,000-member Navy, and the 20,000-member Air Force. Home Guards, an armed militia of more than 20,000 members drawn from local communities and who are responsible to the police, provide security for Muslim and Sinhalese communities located near LTTE-controlled areas. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed serious human right abuses.

The country's economy is market based and primarily driven by the manufacturing and services sector. The population was approximately 19.4 million in 2003, and gross domestic product growth was 5.9 percent in 2003. Public sector wages and benefits kept pace with inflation. On December 26, a large-scale tsunami devastated significant parts of the southern, northern and eastern coastal areas of the country, killing, injuring and displacing thousands of persons.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. There were no reports of security forces committing politically motivated killings and no reports of disappearances; however, there were extensive reports of torture and 13 custodial deaths as a result of police torture. The Government continued investigations into past abuses by armed forces personnel and opened investigations into past abuses by police personnel. Prison conditions remained poor and there were reports of arbitrary arrests during the year. The Government continued to hold 38 Tamils under the Prevention of Terrorism Act (PTA) during the year; however, no new arrests under the PTA occurred. The PTA, like the repealed Emergency Regulations, permitted warrantless arrest and nonaccountable detention. Violence and discrimination against women, and child prostitution occurred. Violence against religious minorities increased, and institutionalized ethnic discrimination against Tamils remained a problem. Trafficking in women and children for the purpose of forced labor occurred, and there was some trafficking of women and children for the commercial sex industry. The Government acted against the child sex trade. Child labor, limitations of worker rights, especially in the Export Processing Zones (EPZs), and discrimination against persons with disabilities continued to be problems.

The LTTE continued to commit serious human rights abuses. The LTTE was responsible for politically motivated killings, arbitrary arrests, torture, harassment, abduction, disappearances, extortion, and detention. The LTTE continued to use and recruit child soldiers. Through a campaign of intimidation, the LTTE continued to undermine the work of elected local government bodies in Jaffna and the east. On occasion, the LTTE prevented political and governmental activities from occurring in the north and east. There were instances of intimidation of Muslims by the LTTE during the reporting period. The LTTE continued to control large sections of the north and east. The LTTE permitted journalists some access to the areas of the country it controlled. Some LTTE-imposed restrictions remained on freedom of movement of citizens. The LTTE denied those under its control the right to change their government, killed candidates standing for office, did not provide for fair trials, infringed on privacy rights, and discriminated against ethnic and religious minorities.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings by the Government; however, human rights organizations and other sources reported that 13 individuals died as a result of torture in police custody.

For example, on February 22, police officers from the Baduraliya Police Station in Kalutara District reportedly assaulted Bellanavithanage Sanath Yasarathne while investigating a family quarrel at his sister's home. Yasarathne fled, and a police officer shot and killed him. At year's end, police were still investigating the case.

On April 19, Muthuthanthrige Chamal Ranjith Cooray died from injuries sustained during 2 days of torture at the Modara Police Post and Moratuwa Police Station in Colombo district. At year's end, the investigation continued.

On October 3, according to media and human rights organization reporting, Polonnaruwa police allegedly killed Herman Quintus Perera after he reportedly refused to sell police liquor on a holiday on which liquor sales were prohibited. Police took Perera and three other persons to the Polonnaruwa Police Station, where the next morning Perera died. A police officer claimed Perera was killed in a fight, but

this claim was uncorroborated by other police. At year's end, four policemen were arrested and remained in custody pending trial.

On November 21, unknown assailants shot Gerald Perera in Wattala. Perera, who was scheduled to testify on December 2 about alleged torture he had undergone in 2002, died 3 days later from the shooting. On December 23, a police sub-inspector and the suspected gunman were arrested in the case, and at year's end, their trials were pending.

No charges were filed against police in the July 2003 death in custody of Sunil Hemachandra, and there were no developments in the November 2003 S.L. Kulatunga death in custody.

Security force impunity remained a problem. At year's end, the Government continued to investigate 5 past cases of rape, 100 past cases of torture, and approximately 1,240 past cases of disappearance. In July 2003, 5 individuals, including 2 police officers, were sentenced to death in the court proceedings involving the 2000 Bindunuwewa rehabilitation camp deaths of 27 Tamil men. The sentences were immediately commuted to 23 years' rigorous imprisonment.

On November 19, High Court Judge Sarath Ambepitiya and his bodyguard were shot and killed by four assailants outside Ambepitiya's Colombo residence. Ambepitiya had presided over several high-profile narcotics cases and was scheduled to hear another narcotics case the following week. Several arrests for the killings had been made by year's end.

In 2003, representatives of the victims of the 1992 massacre of 35 Tamil civilians in the village of Mailanthani requested that the Attorney General (A.G.) appeal the 2002 acquittal of the 21 soldiers accused of the killings. The A.G. did not grant the appeal during the year, and the case remained closed on the final verdict.

In March, when the eastern military LTTE leader Karuna split from the northern Vanni LTTE, 120 LTTE cadre and civilians died in fighting that ensued between the 2 LTTE factions in the east. There were reports that the Government provided aid to the Karuna faction.

During the year, there was credible evidence that, in addition to the 120 cadres and civilians killed in fighting between LTTE factions in March, the LTTE killed more than 81 members of anti-LTTE Tamil political groups, LTTE cadres loyal to Karuna, alleged Tamil informants for the security forces in the north, the east, and in Colombo, and civilians. Both current and former members of anti-LTTE Tamil political parties were targeted by the LTTE. During the year, 10 current and past anti-LTTE Eelam People's Democratic Party (EPDP) members were killed, including V. R. Kamalan, an eastern town council leader, and Media Secretary Balanadarajah Iyer. In March, unknown assailants killed Sinnathamby Sunderpillai, a candidate in the country's parliamentary elections. The assailants killed Sunderpillai at the hospital after failing to kill him near his home earlier in the day. Credible sources indicated that after the fighting in March, the LTTE killed an additional 43 members of breakaway military leader Karuna's group. On August 24, Karuna supporter Periyaamman Jayakumar was killed, and two prison officials injured, when a LTTE member shot Jayakumar in the Magistrate's courtroom in Akkaraipattu in Ampara District. On July 15, an inmate in the Batticaloa prison with allegiance to the Vanni faction of the LTTE killed pro-Karuna cadre Kanapathipillai Mahendran (*see* Section 2.a.).

The LTTE also targeted alleged Tamil informants to the military, killing 10 during the year, including Kandaiah Yoharasa and Tissaveerasingam Dushyanthan.

On July 7, a suspected LTTE suicide bomber detonated explosives attached to her body at a police station, killing herself and four policemen. Her intended target was believed to be Hindu Affairs Minister Douglas Devananda, a long-time anti-LTTE Tamil politician.

After the fighting in March, Karuna's group allegedly killed 26 LTTE cadres, including S. Senathirajah, the LTTE political leader for Batticaloa. Karuna's group also killed 7 civilians, including LTTE supporter, journalist Aiyathurai Nadesan, who was killed in Batticaloa on May 31 (*see* Section 2.a.). There were reports that the Government provided protection and military aid to Karuna and his cadres to assist them in their fight against LTTE cadre.

b. Disappearance.—There were no reports of politically motivated disappearances at the hands of the security forces during the year.

The 2000 U.N. Working Group on Enforced or Involuntary Disappearances listed the country as having an extremely large number of "unclassified" disappearances. There were no developments in any of these cases during the year. From 1995 to 2003, the Rehabilitation of Persons, Property & Industries Authority paid compensation to the next of kin of 17,740 missing persons. At year's end, the Ministry of Relief, Rehabilitation and Reconciliation was seeking cabinet approval to com-

pensate another 960 next of kin. Since 2000, 12 disappearances were reported by the U.N. Working Group, 7 of which are still pending.

In 2002, the Government formed a new commission to investigate disappearances that occurred in the Jaffna area during 1996–97. During the year, the Commission issued letters to next of kin confirming that after being arrested by security forces, the victims disappeared. Next of kin have used these letters to support habeas corpus cases, and at year's end there were 45 cases pending.

Unlike in previous years, there were no indictments, investigations, or prosecutions of security force personnel for past disappearances. Regional commissions, 3 established in 1994 and a 4th established in 1998, reported a total of 21,215 disappearances between 1988 and 1994, most of which occurred during the 1988–89 period of the Janatha Vimukthi Peramuna (People's Liberation Front-JVP) uprising. The commissions found that many people disappeared after having been removed involuntarily from their homes, in most cases by security forces. There were no developments in any of these cases during the year, and none were expected.

During the year, the LTTE continued to detain civilians, often holding them for ransom, especially Muslims in the east. In July, the LTTE abducted 13 Trincomalee-area Muslims who were collecting firewood and demanded ransom for their release. The 10 who were released that same day were forced to provide manual labor, while the other 3 were held for several days and severely beaten before being released (*see* Sections 1.c. and 1.g.).

At year's end, there were more than 120 reports that the LTTE had abducted adults.

c. Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.—The Convention Against Torture Act (CATA) of 1994 makes torture a punishable offense; however, the CATA does not implement several provisions of the U.N. Convention Against Torture, and human rights groups maintain that while torture is prohibited under specific circumstances it is allowed under others. According to Human Rights Commission (HRC) and other sources, the use of police torture to extract admissions and confessions was routine and conducted with impunity. In addition, the PTA makes confessions obtained under any circumstance, including by torture, sufficient to hold a person until the individual is brought to court; however, no arrests were made under the PTA during the year (*see* Section 1.d.).

Methods of torture included beatings, often with wire or hose, electric shock, the suspension of individuals by the wrists or feet in contorted positions, burning, slamming testicles in desk drawers, and near-drowning. In other cases, victims were forced to remain in unnatural positions for extended periods or had bags laced with insecticide, chili powder, or gasoline placed over their heads. Detainees reported broken bones and other serious injuries as a result of their mistreatment, and during the year 13 deaths occurred in police custody (*see* Section 1.a.).

Of the 42 allegations of police torture, complaints came disproportionately from police stations outside the north and east.

There were credible nongovernmental organization (NGO) reports that some police tortured individuals in custody. For example, the Asian Human Rights Commission (AHRC) reported that on January 5, police in uniform and civilian attire from the Matale Police Station poured boiling water for 10 minutes on the genitals and thigh of Jayasekara Vithanage Saman Priyankara, resulting in serious burns. Priyankara was again tortured after Matale police illegally arrested him following his filing of a complaint against police for the initial torture. The National Police Commission (NPC) was investigating the incident at year's end.

On February 2, according to AHRC and media reports, Palitha Tissa Kumara Koralaliyanage was illegally arrested and tortured in the Welipenna Police Station in Kalutara District. Police severely beat Koralaliyanage with a cricket bat and forced a tuberculosis patient to spit into his mouth. Koralaliyanage was later diagnosed with tuberculosis. In May, the Supreme Court agreed to hear Koralaliyanage's case, which was still pending at year's end.

On September 27, Mr. Ruwan Chandrasekera, an officer at the Jaffna Human Rights Commission office, was assaulted by police from the main Jaffna Police Station while investigating a complaint from a detainee's family about incommunicado detention. HRC filed a torture case against the police officer. At year's end, the HRC and the Senior Superintendent of Police in Jaffna were investigating the case (*see* Sections 1.d and 4).

Unlike in previous years, there were no reported cases of rape or sexual assault in custody. According to Amnesty International, Nandini Herat, arrested in 2002 for theft, was subjected to sexual torture while in the custody of the Wariyapola police in Kurunegala District. In July 2003, the Officer in Charge of Wariyapola police and five others were charged in the High Court under CATA. During the year, the case

filed against Herat was dismissed from the Magistrate's Court at Wariyapola, and the three police officers who allegedly tortured her were indicted under CATA by the Kurunegala High Court. At year's end, the case was pending.

Under fundamental rights' provisions in the Constitution, torture victims may file civil suit for compensation in the high courts or Supreme Court. Courts have granted awards ranging from approximately $142 (14,200 rupees) to $1,825 (182,500 rupees). The guilty party paid fines based on the decision of the judge hearing the case. In some cases, the Government did not pay fines incurred by security force personnel found guilty of torture.

Special sections of the A.G.'s Office and the Criminal Investigation Unit focused on torture complaints. During the year, the units forwarded 44 cases for indictments, of which 11 resulted in indictments, with the remaining cases pending at year's end. There were two convictions from indictments in earlier years. The Interparliamentary Permanent Standing Committee and its Interministerial Working Group on Human Rights Issues also continued to track criminal investigations of torture. In June, the HRC established a Torture Prevention Monitoring Unit to implement its "zero tolerance" torture policy (*see* Section 4). The HRC provided extra training for officers assigned to this unit and established a policy of quick investigation for torture complaints. The HRC also assigned special teams to investigate deaths in police custody. By year's end, it was not possible to assess the success of this unit in handling torture complaints.

Prison conditions did not meet international standards; acute overcrowding and lack of sanitary facilities were the main causes. Women were held separately from men. In some cases, juveniles were not held separately from adults. Pretrial detainees were not held separately from those convicted.

The Government permitted visits by independent human rights observers and the International Committee of the Red Cross (ICRC), which during the year conducted 60 visits to 22 permanent places of detention, including prisons and some police stations. During the year, representatives from the national office of the HRC visited 142 police stations and 5 detention centers, while representatives from regional offices of the HRC visited 250 police stations and 19 detention centers.

The LTTE used torture on a routine basis (*see* Section 1.b.).

Conditions also reportedly were poor in LTTE-run detention facilities. The ICRC conducted 6 visits to 2 LTTE-controlled prison facilities, and 18 visits to 14 LTTE-operated police stations. Credible observers reported that conditions in these prisons were acceptable, in that they were on a par with local standards. The ICRC has not had access to other places of detention in LTTE-controlled areas in the Vanni and the east (*see* Section 1.d.).

d. Arbitrary Arrest or Detention.—The Ministry of Internal Security controls the 66,000-member police force, which includes the 6,000-member paramilitary Special Task Force, and is responsible for internal security in most areas of the country. Senior officials in the police force handle complaints against the police, as does the civilian-staffed National Police Commission. Impunity, particularly for cases of police torture, was a problem. Several NGOs claimed that corruption was also a problem in the police force.

In 2002, the Government established the NPC, composed entirely of civilians, and authorized it to appoint, promote, transfer, discipline, and dismiss all police officers other than the Inspector General of Police; however, in practice, the NCP devolved responsibility for discipline of less senior police officers to the Inspector General of Police. The NPC has the power to establish procedures to investigate public complaints against the police. During the year, the NPC handled 1,192 complaints, of which 10 percent were forwarded to local Superintendents of Police for further action.

The law prohibits arbitrary arrest and detention; however, there were reports of arbitrary arrest and detention during the year. Police do not need an arrest warrant for certain offences, such as murder, theft, robbery, and rape. Under the law, authorities must inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours. In practice, persons detained generally appeared within a few days before a magistrate, who can authorize bail for bailable and many nonbailable offences, at his or her discretion, or order continued pretrial detention for up to 3 months or longer. For certain offences, such as murder, the magistrate must remand the suspect, and only the High Court may grant bail. In all cases, suspects have the right of representation. Counsel is provided for indigent defendants in criminal cases before the high court and the courts of appeal, but not in other cases.

Impunity remained a problem. In the majority of cases in which security forces personnel may have committed human rights abuses, the Government has not iden-

tified those responsible or brought them to justice. Human rights organizations noted that some judges were hesitant to convict on cases of torture because of the CATA-directed 7-year mandatory sentence for committing torture. According to human rights organizations, obtaining medical evidence was difficult, as there were only 25 forensic specialists, and medical practitioners untrained in the field of torture assessment examined most torture victims. In some cases, doctors were intimidated by police, which made obtaining accurate medical reporting on torture victims difficult.

The HRC investigated the legality of detention in cases referred to it by the Supreme Court and by private citizens.

In February, the President granted amnesty to 2,000 prisoners. Pardons were not granted to those prisoners sentenced for unlawful assembly, bribery, burglary, theft, treason, abduction, cruelty to children, narcotic offenses, or rape.

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

The President appoints judges to the Supreme Court, the High Court, and the courts of appeal. A judicial service commission, composed of the Chief Justice and two Supreme Court judges, appoints and transfers lower court judges. Judges may be removed for misbehavior or incapacity but only after an investigation followed by joint action of the President and the Parliament.

In criminal cases, juries try defendants in public. Defendants are informed of the charges and evidence against them, and they have the right to counsel and the right to appeal. The Government provides counsel for indigent persons tried on criminal charges in the High Court and the courts of appeal, but it does not provide counsel in other cases. Private legal aid organizations assisted some defendants. In addition, the Legal Aid Commission offered legal aid to assist those who could not afford representation; however, some sources report that its representatives extorted money from beneficiaries. There are no jury trials in cases brought under the PTA. Defendants are presumed innocent, and confessions obtained by various coercive means, including torture, are inadmissible in criminal proceedings but are allowed in PTA cases. Defendants bear the burden of proof to show that their confessions were obtained by coercion. Defendants in PTA cases have the right to appeal. Subject to judicial review in certain cases, defendants may spend up to 18 months in prison on administrative order waiting for their cases to be heard. Once their cases came to trial, decisions were made relatively quickly.

Most court proceedings in Colombo and the south were conducted in English or Sinhala, which, due to a shortage of court-appointed interpreters, restricted the ability of Tamil-speaking defendants to get a fair hearing. Trials and hearings in the north and east were in Tamil and English. While Tamil-speaking judges existed at the magistrate level, only four High Court judges, an Appeals Court judge, and a Supreme Court justice spoke fluent Tamil. Few legal textbooks existed in Tamil, and the Government has complied slowly with legislation requiring that all laws be published in English, Sinhala, and Tamil.

In July, the U.N. Human Rights Committee (UNHRC) reviewed the case of Nallaratnam Singarasa, an ethnic Tamil who was arrested in 1993 during the conflict between the Government and the LTTE. Singarasa claimed he was tortured and made to sign a confession he could not read. The UNHRC found that his right to a fair trial had been violated and called for his release or retrial. In August, the Government was given 90 days to respond to the UNHRC recommendation, but it had not responded, and at year's end, Singarasa remained in prison.

The Government permits the continued existence of certain aspects of personal laws discriminating against women in regard to age of marriage, divorce, and devolution of property (*see* Section 5).

During the year, the LTTE continued to expand the operations of its court system into areas previously under the Government's judicial system in the north and east. On July 28, the LTTE opened a court complex in Mannar. With the expansion, the LTTE demanded that all Tamil civilians stop using the Government's judicial system and rely only on the LTTE's legal system. Credible reports indicated that the LTTE implemented the change through the threat of force.

The LTTE has its own self-described legal system, composed of judges with little or no legal training. LTTE courts operate without codified or defined legal authority and essentially operate as agents of the LTTE rather than as an independent judiciary. In June, according to press reports, LTTE courts tried two men for sedition near Batticaloa and ordered their execution.

The LTTE reportedly held a number of political prisoners. The number was impossible to determine because of the secretive nature of the organization. The LTTE refused to allow the ICRC access to these prisoners (*see* Section 1.c.).

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution provides for the right to privacy, and the Government generally respected this provision in practice; however, it infringed on citizens' privacy rights in some areas. Police generally obtained proper warrants for arrests and searches conducted under ordinary law.

The LTTE routinely invaded the privacy of citizens by maintaining an effective network of informants. The LTTE forcibly recruited over 1,000 children during the year (*see* Section 6.d.). However, during the year, the LTTE also released 613 children, at least 219 of whom were later re-recruited. There were intermittent reports of children as young as 8 years escaping from LTTE camps. After the March fighting between LTTE factions, some Tamils in the east were forced to relocate to the north, and some Tamils in the north were forced to relocate to the east. They were allowed to return later in the year.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—The LTTE routinely used excessive force in the war, including attacks targeting civilians. Since the peace process began in 2001, the LTTE has engaged in kidnapping, hijackings of truck shipments, and forcible recruitment, including of children.

The LTTE expropriated food, fuel, and other items meant for internally displaced persons (IDPs), which resulted in a high rate of anemia, high levels of malnutrition, and low birth rates for IDPs in LTTE-controlled areas.

Landmines were a serious problem in Jaffna and the Vanni, and, to some extent, in the east (*see* Section 5). Landmines, booby traps, and unexploded ordnance posed a problem to resettlement of IDPs and rebuilding. At the end of 2002, a U.N. team established oversight for a mine removal program. In 2003, a U.N. team established a landmine map database, which was shared with all 10 demining agencies that worked in the country. The Government reported 20 mine-related deaths and 34 mine-related injuries during the year.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. Individuals could criticize the Government without fear of reprisal. In the past, the Government restricted press freedom, often using national security grounds permitted by law. In 2002, criminal defamation laws, which had been used often by the Government to intimidate independent media outlets, were eliminated. Private television stations imposed their own, informal censorship on international television news rebroadcast in the country.

Although the Government owned the country's largest newspaper chain, two major television stations, and a radio station, private owners operated a variety of independent, privately owned newspapers, journals, and radio and television stations. Several foreign media outlets operated in the country. Most independent media houses freely criticized the Government and its policies. The Government imposed no political restrictions on the establishment of new media enterprises; however, in February, the Government cancelled the license of a new television channel planned by Asian Broadcasting Corporation.

Unlike in previous years, travel by local and foreign journalists to conflict areas was not restricted.

In its final report, the European Union Election Observation Mission reported that in the period before the April election, the government-owned media displayed an evident bias towards the President's United People's Freedom Alliance (UPFA) coalition and disregarded its duty to provide equitable and fair coverage of the election contestants.

On March 23, the International Federation of Journalists (IFJ) wrote to the President and Prime Minister protesting the March 18 suspension of Lakshman Gunasekera, the editor of the Sunday Observer, a government-owned English language weekly. IFJ's letter suggested Gunasekera's suspension was a result of his writing that state-owned media should maintain a neutral position during election periods. At year's end, Gunasekera had not been reinstated.

On March 28, police raided the Colombo premises of the English language weekly Sunday Leader, known for its investigative reporting. Reporters Without Borders quoted the weekly's publisher, Lasantha Wikramatunga, as saying that police did not have a warrant and that the search was part of the Government's ongoing harassment of the weekly.

On March 29, under Article 27 of the 17th Amendment to the Constitution, the independent Elections Commission took control of government-owned television and radio until the declaration of election results.

In December, the Batticaloa office of Thinakkural, a Tamil daily, was attacked with grenades on two separate occasions by unknown perpetrators, injuring two employees of the newspaper. On December 6, unidentified assailants entered a television and radio transmission station owned by MTV/MBC, an independent network in Jaffna, injuring a guard and vandalizing and damaging equipment. By year's end, no arrests had been made in connection with these incidents.

In 2002, defamation laws were repealed and all cases pertaining to the defamation laws were dropped. During the year, the Government did not restrict access to the Internet.

The LTTE tightly restricted the print and broadcast media in areas under its control. There were also reports of LTTE intimidation of Colombo-based Tamil journalists, and self-censorship was common for journalists covering LTTE controlled areas.

On May 31, pro-Karuna LTTE cadres killed Tamil journalist Aiyathurai Nadesan in Batticaloa. On August 16, in Colombo, the LTTE killed Tamil newspaper journalist and senior EPDP politician Bala Nadarajah Iyer.

In March and April, according to credible sources, pro-Karuna LTTE cadres in the east stopped the distribution of the independent Tamil daily Thinakkural on several occasions.

The LTTE restricted academic freedom, and it repressed intellectuals who criticized its actions. On March 24, according to media reporting and University Teachers for Human Rights (Jaffna) (UTHRJ), the Acting Dean of the Agriculture faculty of the Eastern University, T. Thiruchelvam, was shot and injured by the LTTE at his home in Batticaloa. UTHRJ reported that Thiruchelvam had worked many years for the protection of the eastern region's environment and cultural identity.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice; however, some restrictions existed.

The 1981 Referendum Act states that rallies and demonstrations of a political nature cannot be held when a referendum is scheduled. However, the Government generally granted permits for demonstrations, including those by opposition parties and minority groups.

On May 26, according to the NGO Home for Human Rights, police in Kotagala used tear gas on a crowd of 2,000 persons protesting the closure of Sripada College. Police allegedly beat four protesters who sought medical attention for their injuries. The Supreme Court did not hear the fundamental rights cases brought by the four injured protesters.

The LTTE does not allow freedom of association in the areas it controls and reportedly used coercion to make persons attend its rallies. In July, the Sri Lanka Army protested LTTE coercion of large numbers of school children to attend the July 5 Black Tigers Day in Jaffna.

c. Freedom of Religion.—The Constitution accords Buddhism a foremost position, but it also provides for the right of members of other faiths to practice their religions freely, and the Government generally respected this right in practice.

Foreign clergy may work in the country, but the Government sought to limit the number of foreign religious workers given temporary work permits. Permission usually was restricted to denominations registered with the Government.

During the year, there were at least 30 confirmed reports of assault on Protestant and Catholic churches and church members by Buddhist mobs, often led by extremist Buddhist monks. Village police often were reluctant to pursue Buddhist monk agitators out of deference for their position; however, in February police arrested three Buddhist monks and four other persons for an attack on the Kebithigollwa office of the Christian NGO World Vision and charged them with arson. The arrested persons were freed on bail and the investigation continued at year's end.

In May, an M.P. of the Jathika Hela Urumaya party formally presented to Parliament a draft anticonversion bill as a private member's bill. Several groups submitted Supreme Court petitions challenging the constitutionality of the draft; in August, the Supreme Court ruled that portions of the bill were unconstitutional. At year's end, the bill faced a protracted legislative process prior to a parliamentary vote and did not become law.

Most Muslims expelled by the LTTE since 1990 remain displaced. During the year, the LTTE continued the intimidation of Muslims in the east, although LTTE extortion of Muslims lessened. It appeared that attacks by the LTTE against Muslims were not religiously motivated but were, instead, part of an overall strategy to clear the north and east of persons not sympathetic to the cause of an independent Tamil state. The LTTE made some conciliatory statements to the Muslim community, but most Muslims viewed the statements with skepticism.

Unlike in previous years, there were no reports that the LTTE used churches and temple compounds to congregate in the event of hostilities or as shields for the storage of munitions.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to [the country]," and the Government generally respected these rights in practice; however, it restricted the movement of Tamils. The war with the LTTE prompted the Government to impose more stringent checks on travelers from the north and the east and on movement in Colombo, particularly after dark. Unlike in previous years, Tamils no longer were required to obtain police-passes to move around the country; however, they were frequently harassed at checkpoints throughout the country.

Limited access continued to certain areas near military bases and High Security Zones, defined as areas near military emplacements, camps, barracks, or checkpoints where civilians could not enter. Some observers claimed the High Security Zones were excessive and unfairly affected Tamil agricultural lands, particularly in Jaffna. In August, the Government lessened restrictions at one site in Chavakachcheri and allowed farmers and their families to return to their land; however, the general public was still denied access to this area. The LTTE limited travel on the road connecting Jaffna to the rest of the country.

According to the United Nations High Commissioner for Refugees (UNHCR), as of October, 377,776 IDPs had returned to their places of origin, leaving roughly 353,624 IDPs displaced by the conflict in the country. There were 295 camps for those displaced by ethnic conflict, and during the year, 78,398 persons were in welfare centers, and 275,226 were staying with friends or relatives. According to various sources, approximately 65,000 IDPs were unable to resettle as a result of the High Security Zones. The UNHCR found sexual abuse to be endemic in IDP camps. According to the UNHCR, 5,633 Tamil refugees had returned from India during the year. During the year, the Government began a program to relocate 1,500 IDPs to state lands in Vavuniya and Kilinochchi Districts in the north.

Most of the 46,000 Muslims expelled in 1990 by the LTTE remained displaced and lived in or near welfare centers. Unlike in previous years, the LTTE invited the Muslim IDPs to return home, asserting they would not be harmed. Although 500 Muslim IDPs returned home during the year, the majority did not move and awaited a guarantee from the Government for their safety in LTTE-controlled areas.

The LTTE occasionally disrupted the flow of persons exiting the Vanni region through the two established checkpoints. The LTTE taxed civilians traveling through areas it controlled.

The law does not provide for the granting of asylum and/or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. The Government has not established a system for providing protection to refugees; however, the Government cooperated with the UNHCR and other humanitarian organizations in assisting IDPs and refugees. There were no reports of refoulement, the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully. Citizens exercised this right in practice through multiparty, periodic, free, and fair elections held on the basis of universal suffrage; however, recent elections have been marred by violence and some irregularities. The President (elected in 1999 for a 6-year term) holds executive power, while the 225-member Parliament, elected in April, exercises legislative power.

In February, the President dissolved Parliament and called for a general election in April, in which the President's alliance, the UPFA, received 45 percent of the vote. The UPFA did not win enough seats to command a majority in Parliament, but it was able to form a government headed by Prime Minister Mahinda Rajapakse. The April parliamentary election was largely free and fair. The EUEOM described the election as having been conducted in a democratic matter, with the exception of irregularities in the north and east, where widespread voter impersonation and multiple voting occurred. Several sources cited the LTTE as responsible for the irregularities. The EUEOM reported that more than 2,000 incidents of election violence occurred, resulting in the deaths of 5 persons and the serious injuring of another 15. Voter turnout was 75 percent. Unlike in previous elections, the Gov-

ernment allowed persons living in LTTE controlled areas to vote in cluster polling booths in government-controlled areas.

In October, the Parliament passed a bill to require all citizens to present a national identity card when they vote. The Government provided for a 1-year grace period because many Tamils living in the north, east, and hill country did not have identity cards, and the Government allowed local poll supervisors to accept other forms of identification during this period.

There was corruption in the executive and legislative branches. Transparency International (TI) identified nepotism and cronyism in the appointment of officials to government and state-owned institutions. TI also noted that low frequency but high-value "big-ticket" corruption was a problem in tender processes and establishing business operations. Until 2003, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) did not operate fully. Some sources described as difficult the procedure for prosecution on corruption charges. At year's end, CIABOC had received 1,543 complaints, 48 of which were in the court system. No major cases of bribery resulted in conviction.

There was no law providing for public access to government information.

There were 9 women in the 225-member Parliament. There was one woman in the Cabinet, and two sat on the Supreme Court. In December 1999, a woman, Chandrika Kumaratunga, was elected President for a second term. There were 28 Tamils and 26 Muslims in the 225-member Parliament. There was no provision for or allocation of a set number/percentage of political party positions for women or minorities.

The LTTE continued to refuse to allow elections in areas under its control, and opposed campaigning by certain Tamil parties in the east during the April parliamentary elections. Credible sources reported that there were two killings of candidates in the east—a UNF candidate, S. Sunderampillai; and a TNA candidate, R. Sathiyamoorthi—as well as killings of three supporters of political parties.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Many domestic human rights NGOs, including the Consortium of Humanitarian Agencies; Home for Human Rights; the University Teachers for Human Rights, Jaffna; the Civil Rights Movement; and the Law and Society Trust monitored civil and political liberties. There are no restrictive regulations governing the activities of local and foreign NGOs, although the Government officially required NGOs to include action plans and detailed descriptions of funding sources as part of the registration process it requires at an NGO's commencement of work and every 5 years thereafter. Some NGO workers viewed this as an attempt by the Government to exert greater control over the NGO sector after previous human rights groups' criticisms. Most NGOs complied with these reporting requirements.

On March 29, the Government submitted a report to the UNHRC as a part of its reporting responsibilities under the Convention Against Torture. The U.N. did not evaluate the report during the year, and it remained confidential.

In September, AHRC alleged that the Government tried to discredit it in a letter to a German-based NGO, Action of Christians Against Torture, suggesting that the AHRC had been engaged in a campaign of vilification against the Government.

The Government continued to allow the ICRC unrestricted access to detention facilities (*see* Sections 1.c. and 1.d.). The ICRC provided international humanitarian law training materials and training to the security forces. During the year, the ICRC also delivered health education programs in LTTE-controlled areas in the north and east (*see* Section 1.g.).

The HRC by statute has wide powers and resources and may not be called as a witness in any court of law or be sued for matters relating to its official duties. However, according to many human rights organizations, the HRC often was not as effective as it should have been. The HRC did not have enough staff or resources to process its caseload of 6,720 pending complaints. The HRC adopted a tribunal-like approach to investigations and declined to undertake preliminary inquires in the manner of a criminal investigator. In December, HRC issued an annual report for 2003. In June, the HRC established a Torture Prevention Monitoring Unit in its headquarters and three of its regional offices to implement its zero tolerance torture policy. HRC provided extra training for officers assigned to this unit, and established a policy of quick investigation for torture complaints. To ensure its sustainability, HRC urged the Treasury to cover costs of the Torture Prevention Monitoring Unit.

During the year, there were instances of interference with HRC investigations. In June, HRC officers attempting to investigate a complaint of torture were harassed and intimidated by police officers at the Paiyagala Police Station in Kalutara District. On September 27, a police officer assaulted HRC officer Ruwan Chandrasekera who was investigating a complaint at the Jaffna Police Station (*see* Sections 1.c. and d.).

In July, the LTTE set up the Northeast Secretariat of Human Rights (NESOHR). By year's end, NESOHR had drafted terms of reference and had begun to hear some of the complaints it had received.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equal rights under the law for all citizens, and the Government generally respected these rights in practice; however, there were instances where sex-based discrimination occurred. The HRC is a mechanism the Government has established to ensure enforcement of constitutional provisions in addition to access to the courts (*see* Section 1.d.).

Women.—Sexual assault, rape, and spousal abuse (often associated with alcohol abuse) continued to be serious and pervasive problems. Amendments to the Penal Code introduced in 1995 specifically addressed sexual abuse and exploitation and modified rape laws to create a more equitable burden of proof and to make punishments more stringent. Marital rape is considered an offense in cases of spouses living under judicial separation. While the Penal Code may ease some of the problems faced by victims of sexual assault, many women's organizations believed that greater sensitization of police and judicial officials was necessary. During the year, the Bureau for the Protection of Children and Women received 1,190 complaints of violent crimes against women.

Unlike last year, there were no reported incidents of rape or attempted rape by security forces. At year's end, a case was pending in the October 2003 charge that two policemen attempted to rape Mrs. Selvarajan in Uyilankulam in Mannar District. No case was filed in the August 2003 charge that three soldiers attempted to rape a woman in Vadamarachchi in the Jaffna Peninsula. During the year, police reported approximately 928 rape investigations in the country compared with 900 rape investigations in 2003. Services to assist victims of rape and domestic violence such as crisis centers, legal aid, and counseling were limited.

Prostitution, which was not legal, occurred during the year. Some members of the police and security forces reportedly participated in or condoned prostitution. Although laws against procuring and trafficking were strengthened in 1995, trafficking in women for the purpose of forced labor occurred (*see* Section 5, Trafficking).

Sexual harassment is a criminal offense carrying a maximum sentence of 5 years in prison; however, these laws were not enforced.

The Constitution provides for equal employment opportunities in the public sector. However, women had no legal protection against discrimination in the private sector, where they sometimes were paid less than men for equal work, often experienced difficulty in rising to supervisory positions, and faced sexual harassment. Even though women constituted approximately one-half of the formal workforce, according to the Asian Development Bank (ADB), the quality of employment available to women was less than that available to men, as the demand for female labor was mainly for casual and low-paid, low-skill jobs in the formal and informal sectors.

In December, UNHCR launched a media campaign to promote awareness of sexual and gender-based violence, including sexual harassment in the workplace, and violence against women and children, and domestic abuse.

Women have equal rights under national, civil, and criminal law; however, questions related to family law, including divorce, child custody, and inheritance, were adjudicated by the customary law of each ethnic or religious group. The minimum age of marriage for women is 18 years, except in the case of Muslims, who may follow their customary marriage practices and marry at 15. Women were denied equal rights to land in government-assisted settlements, as the law does not institutionalize the rights of female heirs. Different religious and ethnic practices often resulted in uneven treatment of women, including discrimination.

Children.—The Compulsory Attendance at Schools Act requires children between the ages of 5 and 14 to attend school, and the Government demonstrated its commitment to children through extensive systems of public education and medical care. Approximately 85 percent of children under the age of 16 attended school. Education was free through the university level. Health care, including immunization, was also free.

Many NGOs attributed the problem of exploitation of children to the lack of law enforcement rather than inadequate legislation. Many law enforcement resources

were diverted to the conflict with the LTTE, although the police's Bureau for the Protection of Children and Women conducted investigations into crimes against children and women. In 2002, police opened an office to work directly with the National Child Protection Authority (NCPA) on children's issues, to support NCPA investigations into crimes against children, and to arrest suspects based on those investigations.

Under the law, the definition of child abuse includes all acts of sexual violence against, trafficking in, and cruelty to children. The law also prohibits the use of children in exploitative labor or illegal activities or in any act contrary to compulsory education regulations. It also broadens the definition of child abuse to include the involvement of children in war. The NCPA included representatives from the education, medical, retired police, and legal professions and reported directly to the President. During the year, the Bureau for the Protection of Children and Women received 1,841 complaints of violent crimes against children.

The Government pushed for greater international cooperation to bring those guilty of pedophilia to justice. The penalties for pedophilia range from 5 to 20 years imprisonment and an unspecified fine. During the year, 39 cases of pedophilia were brought to court and were pending at year's end. Child prostitution was a problem in certain coastal resort areas. The Government estimated that there were more than 2,000 child prostitutes in the country, but private groups claimed that the number was as high as 6,000. Citizens committed much of the child sexual abuse in the form of child prostitution; however, some child prostitutes were boys who catered to foreign tourists. Some of these children were forced into prostitution (*see* Section 5, Trafficking). The Department of Probation and Child Care Services provided protection to child victims of abuse and sexual exploitation and worked with local NGOs that provided shelter. The Tourist Bureau conducted awareness-raising programs for at-risk children in resort regions prone to sex tourism.

The LTTE used child soldiers and recruited children, sometimes forcibly, for use in battlefield support functions and in combat. LTTE recruits, some as young as 13 years of age, surrendered to the military or the Sri Lanka Monitoring Mission, and credible reports indicated that the LTTE stepped up recruiting efforts, especially in the east (*see* Section 1.g.). During the year, credible sources reported that there were over 1,000 cases of forcible child recruitment by the LTTE and that more than 5,000 children remained in LTTE custody at year's end. In 2003, the LTTE and UNICEF reached an agreement on the demobilization and rehabilitation of child soldiers and began work on an action plan to address issues relating to child labor, including underage recruitment. Several sources reported that the action plan was not working because of LTTE obstruction. Senior LTTE officials alleged to foreign officials that child soldiers were volunteers.

Trafficking in Persons.—The law prohibits trafficking in persons; however, the country was a point of origin and destination for trafficked persons, primarily women and children trafficked for the purposes of forced labor and sexual exploitation. The country was a source for women who were trafficked to Lebanon, Saudi Arabia, Kuwait, the United Arab Emirates, Bahrain, and Qatar for the purposes of coerced labor and sexual exploitation. A smaller number of Thai, Chinese, and Russian women were trafficked to the country for commercial sexual exploitation. Women and children were trafficked internally for domestic and sexual servitude. Boys and girls were victims of commercial sexual exploitation by pedophiles in the sex tourism industry.

The legal penalties for trafficking in women include imprisonment for 2 to 20 years and a fine. For trafficking in children, the law allows imprisonment of 5 to 20 years and a fine.

In 2003, law enforcement efforts against trafficking improved with the introduction of a computerized immigration system that expanded the number of officials who could input names of suspected traffickers or sex tourists, thereby subjecting them to investigation and preventing them from leaving the country. The NCPA instituted a CyberWatch Project to monitor suspicious Internet chat rooms. Sting operations were conducted based on information gathered in these chat rooms, leading to several trafficking arrests. For those convicted, the sentence was 1 year of rigorous imprisonment and a fine of $1,000 (100,000 rupees).

Internal trafficking in male children was also a problem, especially from areas bordering the northern and eastern provinces. Protecting Environment and Children Everywhere, a domestic NGO, estimated that there were 6,000 male children between the ages of 8 and 15 years engaged as sex workers at beach and mountain resorts. Some of these children were forced into prostitution by their parents or by organized crime.

The NCPA has adopted, with the International Labor Organization (ILO) assistance, a comprehensive national plan to combat the trafficking of children for exploitative employment. With the NCPA, police began work in 2002 on children's issues, including trafficking in children.

The Government established rehabilitation camps for trafficking victims and initiated awareness campaigns to educate women about trafficking; however, most of the campaigns, with support from the Bureau of Foreign Employment, were conducted by local and international NGOs.

Persons With Disabilities.—The law forbids discrimination against any person on the grounds of disability; however, there were instances of discrimination against the disabled in the areas of employment, education, and in the provision of other state services. The law does not mandate access to buildings for persons with disabilities. The Department of Social Services operated eight vocational training schools for persons with physical and mental disabilities and sponsored a program of job training and placement for graduates. The Government also provided some financial support to NGOs that assisted persons with disabilities. Such assistance included subsidizing prosthetic devices, making purchases from suppliers with disabilities, and registering 74 NGO-run schools and training institutions for persons with disabilities. The Department of Social Services selected job placement officers to help the estimated 200,000 work-eligible persons with disabilities find jobs. Despite these efforts, persons with disabilities faced difficulties because of negative attitudes and societal discrimination.

National/Racial/Ethnic Minorities.—There were approximately 1 million Tamils of comparatively recent Indian origin, the so-called hill, tea estate, or Indian Tamils, whose ancestors originally were brought to the country in the 19th century to work on plantations. In the past, approximately 300,000 of these persons did not qualify for citizenship in any country and faced discrimination, especially in the allocation of government funds for education. In October 2003, Parliament passed a bill granting full citizenship to over 300,000 tea estate Tamils. In August, UNHCR began awareness campaigns to alert Tamils to the new legislation and by year's end had registered approximately 200,000 persons.

Both local and hill Tamils maintained that they suffered longstanding systematic discrimination in university education, government employment, and in other matters controlled by the Government. According to HRC, Tamils also experienced discrimination in housing.

Indigenous People.—The country's indigenous people, known as Veddas, numbered fewer than 1,000. Some preferred to maintain their traditional way of life, and are protected by the Constitution. There are no legal restrictions on their participation in the political or economic life of the nation. Some Veddas complained that they were being pushed off their land in protected forest areas.

Other Societal Abuses and Discrimination.—Penal Code Section 365a criminalizes homosexual activity between men and between women; however, it was not enforced. NGOs working on lesbian, gay, bisexual, and transgender issues did not register with the Government. During the year, human rights organizations reported that police harassed, extorted money from, and assaulted gay men in Colombo and other areas.

There was no official discrimination against those who provided HIV prevention services or against high-risk groups likely to spread HIV/AIDS; however, there was some societal discrimination against these groups.

Section 6. Worker Rights

a. The Right of Association.—The Government respects the constitutional right of workers to establish unions, and the country has a strong trade union tradition. Any seven workers may form a union, adopt a charter, elect leaders, and publicize their views; however, in practice, such rights were subject to administrative delays. Nonetheless, approximately 20 percent of the 7 million-person work force nationwide and more than 70 percent of the plantation work force was unionized. In total, there were more than 1 million union members. Approximately 15 to 20 percent of the nonagricultural work force in the private sector was unionized. Unions represented most workers in large private firms, but workers in small-scale agriculture and small businesses usually did not belong to unions. Public sector employees were unionized at very high rates.

Most large unions were affiliated with political parties and played a prominent role in the political process, although major unions in the public sector were politically independent. In 2003, the Ministry of Employment and Labor registered 168 new unions and canceled the registration of 64 others, bringing the total number of functioning unions to 1,604 by the end of 2003. The Ministry of Employment and

Labor is authorized by law to cancel the registration of any union that does not submit an annual report, the only grounds for the cancellation of registration.

Employers found guilty of discrimination must reinstate workers fired for union activities but may transfer them to different locations. Antiunion discrimination is a punishable offense liable for a fine of $200 (20,000 rupees).

b. The Right to Organize and Bargain Collectively.—The law provides for the right to collective bargaining; however, very few companies practiced it. At year's end, about 50 companies belonging to the Employers' Federation of Ceylon (EFC), the leading employers' organization, had collective agreements. All collective agreements must be registered at the Department of Labor. Data on the number of collective agreements registered at the Department of Labor were not available. More than half of EFC's 435-strong membership was unionized.

All workers, other than police, armed forces, prison service, and those in essential services, have the right to strike. By law, workers may lodge complaints with the Commissioner of Labor, a labor tribunal, or the Supreme Court to protect their rights. The President retains the power to designate any industry as an essential service.

The law prohibits retribution against strikers in nonessential sectors; however, in practice employees were sometimes fired for striking.

Under the law, workers in the EPZs have the same rights to join unions as other workers. While the unionization rate in the rest of the country was approximately 20 percent, the rate within the EPZs was under 10 percent. Fewer than 10 unions were active in EPZs, partially because of severe restrictions on access by union organizers to the zones. Trade unions were formally recognized in 8 out of approximately 200 factories in the EPZs. In a few other factories, management has begun discussions with the unions. There was only one operating collective agreement in the EPZs during the year. Labor representatives alleged that the Government's Board of Investment (BOI), which managed the EPZs, including setting wages and working conditions in the EPZs, discouraged union activity. The short-term nature of employment and the relatively young workforce in the EPZs, made it difficult to organize.

Labor representatives alleged that the Labor Commissioner, under BOI pressure, failed to prosecute employers who refused to recognize or enter into collective bargaining with trade unions.

According to the International Confederation of Free Trade Unions, during the year there were some violations of trade union rights in the EPZs. The nonrecognition of trade unions became a contentious issue, in part because of obligations under various multilateral and bilateral trade agreements.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or bonded labor; however, there were reports that such practices occurred. The law does not prohibit forced or bonded labor by children specifically, but government officials interpreted it as applying to persons of all ages (*see* Section 6.d.). There were credible reports that some rural children were employed in debt bondage as domestic servants in urban households, and there were numerous reports that some of these children had been abused.

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum age for employment is 14, although the law permits the employment of younger children by their parents or guardians in limited family agriculture work or to engage in technical training. A recent amendment to the Employment of Women and Youth Act prohibits all other forms of family employment of children below 14. A child activity survey, carried out in 1998 and 1999 by the Department of Census and Statistics, found almost 11,000 children between the ages of 5 and 14 working full time and another 15,000 engaged in both economic activity and housekeeping. The survey found 450,000 children employed by their families in seasonal agricultural work throughout the country.

Persons under age 18 may not be employed in any public enterprise in which life or limb is endangered. There were no reports that children were employed in the EPZs, the garment industry, or any other export industry, although children sometimes were employed during harvest periods in the plantation sectors and in nonplantation agriculture. Sources indicated many thousands of children were employed in domestic service, although this situation was not regulated or documented. Many child domestics reportedly were subjected to physical, sexual, and emotional abuse. Regular employment of children also occurred in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops. A 2003 International Labor Organization/International Program for Elimination of Child Labor (IPEC)-sponsored Rapid Assessment survey on domestic child labor in five

districts found child domestic workers (under 18 years) in roughly 2 percent of households.

The National Child Protection Authority (NCPA) is the central agency for coordinating and monitoring action on the protection of children. The Department of Labor (DOL), the Department of Probation and Child Care Services, and the Police Department are responsible for the enforcement of child labor laws. The NCPA and DOL have observed a declining trend in employment of children under 14 years due to stricter regulations and increasing public awareness regarding child labor. The Labor Department reported 203 complaints of child labor in 2003, with 65 of these cases withdrawn due to lack of evidence or faulty complaints. The Department prosecuted 44 cases in 2003. During the year, the Labor Department reported 64 complaints, with 9 cases withdrawn and 19 prosecuted. Penalties for employing minors were increased from approximately $10 (1,000 rupees) and/or 6 months imprisonment to $100 (10,000 rupees) and/or 12 months imprisonment.

Although the law prohibits forced or bonded labor by persons of any age, some rural children reportedly have served in debt bondage (*see* Sections 5 and 6.c.).

The LTTE used children as young as age 13 years in battle, and children often were recruited forcibly (*see* Section 5, Children).

During the year, a UNICEF-supported action plan sought to restore normalcy to former LTTE child soldiers through release and reintegration. Under this program, UNICEF supported the establishment of a transit center in Kilinochchi for child recruits released by the LTTE.

As required by ILO Convention 182, the Government identified a list of 50 occupations considered to be the worst forms of child labor (for children under 18 years). Laws proscribing these worst forms of child labor have not been formulated.

e. Acceptable Conditions of Work.—While there is no universal national minimum wage, 38 wage boards established by the Ministry of Labor set minimum wages and working conditions by sector and industry. These minimum wages did not provide a decent standard of living for a worker and family. In late 2003, the Ministry of Labor began increasing the minimum wages of all wage boards by a minimum of 15 percent; however, at year's end, this process had not been completed for garment and hotel worker wages.

The law prohibits most full-time workers from regularly working more than 45 hours per week (a 5-day workweek). New regulations limited the maximum overtime hours to 15 per week. Labor organizers were concerned that the new legislation did not include a provision for overtime with the consent of the worker. Workers receive 14 days of annual leave, 14 to 21 days of medical leave, and approximately 20 local holidays each year. Maternity leave is available for permanent, seasonal and part-time female workers. Several laws protect the safety and health of industrial workers, but the Ministry of Labor's small staff of inspectors was inadequate to enforce compliance. Health and safety regulations do not meet international standards. Workers have the statutory right to remove themselves from dangerous situations, but many workers were unaware or indifferent and feared that they would lose their jobs if they removed themselves from the work situation.

WESTERN HEMISPHERE

ANTIGUA AND BARBUDA

Antigua and Barbuda is a multiparty, parliamentary democracy governed by a prime minister, a cabinet, and a bicameral legislative assembly. A governor general, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. In March parliamentary elections, which observers described as generally free and fair, the United Progressive Party (UPP) defeated Prime Minster Lester Bird's Antigua Labour Party (ALP), which had controlled the Government and Parliament continuously since 1976. Since taking office, Prime Minister Baldwin Spencer has passed important reform legislation improving government accountability and transparency. The judiciary is independent.

Security forces consist of a police force and the small Antigua and Barbuda Defense Force. The security forces are responsible for law enforcement, and civilian authorities maintained effective control of them. Some members of the security forces committed human rights abuses.

The country had a mixed economy with a strong private sector. The population was approximately 76,000. Tourism and financial services were the most important source of foreign exchange earnings. The Government was the largest employer, with approximately 13,000 workers. The government's large debt was a serious problem. Real economic growth was projected to be 4 percent for the year. The Labor Commission estimated that the unemployment rate was 11 to 13 percent at year's end.

The Government generally respected the human rights of its citizens; however, problems remained in a few areas. There were allegations of police brutality. Prison conditions were poor, and there were allegations of abuse of prison inmates and sexual harassment of female prison guards. Societal discrimination and violence against women continued to be problems.

RESPECT FOR HUMAN RIGHTS

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

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

The inquest into the November 2003 police killing of escaped convict Frederick Martin James continued at year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and the authorities generally respected these prohibitions in practice; however, there were occasional reports of police brutality and threatening behavior and allegations of abuse by prison guards.

There were no developments in the investigation of the October 2003 police shooting of bystander Khary Roberts.

Prison conditions were poor. At year's end, the prison held 183 prisoners (154 men and 14 women) in a facility designed to hold 182. Prison conditions were inadequate, particularly recreation and rehabilitation facilities. The prison did not have toilet facilities, and slop pails were used in all 122 cells. The Rehabilitation Center for prisoners found guilty of committing minor crimes held an additional eight male prisoners at the end of the year. During the year, a school for juvenile offenders was established offering classes in crafts, computers, and auto repair, and 11 juveniles were enrolled at year's end.

Female prisoners were held in a separate section and were not subject to the same problems encountered in the men's prison. Juveniles were held separately from adult inmates.

Pretrial detainees were held separately from convicted prisoners.

The Government permitted prison visits by independent human rights observers, and such monitoring occurred during the year.

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

The 571-person police force is headed by a Police Commissioner, and included 32 senior officers and 28 inspectors. The Police Welfare Association advocated additional training for the police, particularly management training for senior officers, and two officers received such training.

Police are permitted to arrest without warrant persons suspected of committing a crime. Criminal defendants have the right to a judicial determination of the legality of their detention. The police must bring detainees before a court within 48 hours of arrest or detention. UPP assertions of violations were curbed following the March elections. Criminal detainees were allowed prompt access to counsel and family members.

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

The judicial system is part of the Eastern Caribbean legal system and reflects historical ties to the United Kingdom. The first level of court is the magistrate, followed by the Court of Appeals and the Supreme Court. The Constitution designates the Privy Council in London as the final court of appeal, which always is employed in the case of death sentences.

The Constitution provides that criminal defendants should receive a fair, open, and public trial. Trials are by jury. Defendants enjoyed a presumption of innocence. In capital cases only, the Government provided legal assistance at public expense to persons without the means to retain a private attorney. Courts may reach verdicts quickly, with some cases coming to conclusion in a matter of days.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. Violations were subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these provisions in practice and did not restrict academic freedom. Privately owned print media, including daily and weekly newspapers, were active and offered a range of opinion. However, early in the year, the then-opposition UPP alleged that the Government restricted access to electronic media, effectively denying them equal coverage.

The Government owned one of the four general-interest radio stations and the single television station. One of the former Prime Minister's brothers owned a second radio station, and another brother was the principal owner of the sole cable television company. The government-controlled media reported regularly on the activities of the Government and the then-ruling ALP party. After the March election, the government media became less politicized.

In October, the Bird family-owned radio station ZDK was taken off the air briefly for not paying its overdue electricity bill of $49,000 ($132,000 EC). The ALP complained that the station was taken off the air for politically motivated reasons.

Prior to the March national election, the Government restricted opposition access to the media, and there were allegations of censorship as the result of subtle coercive pressure by influential persons. For example, owners of the independent Observer radio station claimed that several large corporations declined to advertise on the station for fear of losing lucrative government contracts. In addition, the former Government cited violations of the Telecommunications Act to revoke the owners' license to operate satellite transmission equipment and seized the equipment. At year's end, the matter was still before the courts, and the equipment had not been returned.

The media was highly politicized, and most media outlets supported one of the political parties. The editorial and news focus of the mainstream daily Antigua Sun was influenced by a foreign owner who has major investments in the country and wields considerable political influence. During the year, the new Government took steps to de-politicize the government-owned media.

The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. The police generally issued the required permits for public meetings but sometimes denied them to avert violent confrontations.

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

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice.

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

Although the country is a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not established a system for providing protection to refugees or asylum seekers. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government did not routinely grant refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. All citizens 18 years of age and older may register and vote by secret ballot. The Constitution requires general elections at least every 5 years. The Governor General appoints senators in proportion to the parties' representation in Parliament and with the advice of the Prime Minister and the leader of the opposition.

In March elections, the opposition UPP won 12 of 17 seats in the House of Representatives and 55 percent of the popular vote. UPP leader Baldwin Spencer was sworn in as Prime Minister on March 24, replacing Lester Bird, whose ALP had held power continuously since 1976. Members of the Commonwealth observer group reported that the elections were free and fair.

High-level corruption was a problem, particularly concerning the former ALP Government. Numerous high profile corruption investigations began during the year. These investigations hindered the new Government because the losing ALP party stripped many government offices of key files and documents. During the year, the Spencer Administration implemented an aggressive anti-corruption program and passed legislation concerning anti-corruption and ethics.

During the year, the Spencer Administration passed legislation on government transparency to provide access to government information.

The Directorate of Gender Affairs participated in workshops to encourage women to become active in politics. There was 1 woman elected to the 17-seat House of Representatives; there were 2 women appointed to the 17-seat Senate. In addition, the Speaker of the House of Representatives and the President of the Senate, both appointed positions, were women. There were no women in the cabinet, although two women served as Ministers of State.

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

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

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, sex, creed, language, or social status, and the Government generally respected these provisions in practice.

Women.—Violence against women was a matter of public concern, and nongovernmental social welfare groups focused on the problem. Many women were reluctant to testify against their abusers. A 1999 Domestic Violence Act prohibits and provides penalties for domestic violence, rape, and other sexual offenses. Organizations such as the Government's Directorate of Gender Affairs sought to increase women's awareness of their rights under the law in cases of domestic violence. The Directorate of Gender Affairs operated a domestic violence program that included training for police officers, magistrates, and judges. The Directorate also ran a domestic abuse hotline and worked with a nongovernmental organization (NGO) to provide safe havens for abused women and children. There were a number of active NGOs that addressed issues affecting women.

Prostitution is prohibited, but it remained a problem. There were a number of brothels, staffed mostly by women from the Dominican Republic, which catered primarily to the local population.

Sexual harassment is illegal, but it was rarely prosecuted. According to the Labor Department, there was a high incidence of sexual harassment reported by employees in both the private and public sectors.

While the role of women in society is not restricted legally, economic conditions in rural areas tended to limit women to home and family, although some women worked as domestics, in agriculture, or in the large tourism sector. Women were well represented in the public sector; 54 percent of the public service and over half the permanent secretaries—the most senior positions—were female. In addition, 41 percent of bar association members were female.

The Professional Organization for Women of Antigua was a networking and resource group for female executives. It held seminars for women entering the workforce during the year.

Children.—While the Government repeatedly expressed its commitment to children's rights, its efforts to protect those rights in practice were limited. The Government provided free, compulsory, and universal education for children through the age of 16. However, schools faced many shortages, and parents typically provided desks and chairs. Although shared textbooks were provided, parents often purchased books; parents also provided uniforms. More than 95 percent of school-age children attended school, and most children achieved a secondary education.

Boys and girls had equal access to health care and other public services.

Child abuse remained a problem. Police estimated that there were approximately 20 cases of child sexual abuse reported during the year, of which less than 5 involved incest. There were no new developments and none were expected in the 2001 child pornography and prostitution ring involving several high-ranking members of society.

Trafficking in Persons.—There are no laws that specifically address trafficking in persons. Although there were no reports that persons were trafficked to, from, or within the country, a task force evaluating the passport office determined that passports could be fraudulently obtained, raising the possibility that fraudulent passports could be used to facilitate migrant smuggling or trafficking in persons

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, although the Government did not enforce constitutional anti-discrimination provisions. No specific laws mandate accessibility for persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—Workers have the right to associate freely and to form labor unions. Approximately 75 percent of workers belong to a union; the hotel industry was heavily unionized. During the year, there were reports that the owner of Caribbean Star Airlines, based in the country, threatened to shut down the airline after some employees began to organize a union, effectively putting a stop to the effort.

b. The Right to Organize and Bargain Collectively.—Labor organizations were free to organize and bargain collectively. The Labor Code applied equally to workers in the country's free trade zones.

The Labor Code recognizes the right to strike, but the Industrial Relations Court may limit this right in a given dispute. Workers who provide essential services (including bus, telephone, port, and petroleum workers, in addition to health and safety workers) must give 21 days' notice of intent to strike. Once either party to a dispute requests that the court mediate, strikes are then prohibited under penalty of imprisonment. Because of the delays associated with this process, unions often resolved labor disputes before a strike was called. In addition, an injunction may be issued against a legal strike when the national interest is threatened or affected. The International Labor Organization's Committee of Experts repeatedly requested the Government to amend certain paragraphs of the Industrial Courts Act and the extensive list of essential services in the Labor Code, asserting that these provisions prohibit the right to strike.

c. Prohibition of Forced or Compulsory Labor.—The Constitution forbids slavery and forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law stipulates a minimum working age of 16 years, which corresponds with the provisions

of the Education Act. In addition, persons under 18 years of age must have a medical clearance to work and may not work later than 10 p.m. The Ministry of Labor, which is required by law to conduct periodic inspections of workplaces, effectively enforced this law. The Labor Commissioner's office also had an Inspectorate that investigated exploitative child labor matters.

e. Acceptable Conditions of Work.—The Labor Code provides that the Minister of Labor may issue orders, which have the force of law, to establish a minimum wage. In 2002, upon recommendation from a tripartite committee of representatives from employers, employees, and government, the Minister of Labor set the minimum wage at $2.22 (EC$6.00) an hour for all categories of labor. The minimum wage provided a barely adequate standard of living for a worker and family, and in practice the great majority of workers earned substantially more than the minimum wage.

The law provides that workers are not required to work more than a 48-hour, 6-day workweek, but in practice the standard workweek was 40 hours in 5 days. Laws provide for overtime work in excess of the standard workweek; excessive overtime is not prohibited. The law stipulates that workers receive a minimum of 12 days of annual leave. The law requires employers to provide maternity leave with 40 percent of wages for 6 weeks of leave, while social service programs provide the remaining 60 percent of wages. The employer's obligation ends after the first 6 weeks, but social services continue to pay 60 percent of wages for an additional 7 weeks.

Although the Government has not yet developed occupational health and safety laws or regulations, a section of the Labor Code includes some provisions regarding occupational safety and health. Although not specifically provided for by law, workers may leave a dangerous workplace situation without jeopardy to continued employment.

ARGENTINA

Argentina is a federal constitutional democracy with an executive branch headed by an elected president, a bicameral legislature, and a separate judiciary. Free and fair presidential elections were held in April 2003; although no candidate gained sufficient votes to win in the first round, former President Carlos Menem withdrew his candidacy before the second round, and President Nestor Kirchner assumed office on May 25, 2003. The Constitution provides for an independent judiciary, but it was often inefficient and at times subject to political manipulation.

The President is the constitutional commander-in-chief, and a civilian Defense Minister oversees the armed forces. Several agencies share responsibility for maintaining law and order. In August, the President returned authority over the Federal Police (PFA), the Border Police, and the Coast Guard from the Ministry of Justice and Human Rights to the Secretary of Security, under the Ministry of Interior. The PFA has jurisdiction in the Federal Capital and over federal crimes in the provinces. Provincial police are subordinate to the provincial governors. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed human rights abuses.

The country is resource rich and has a market-based economy and a population of approximately 36.2 million. Real economic growth was predicted to be 8.2 percent, while consumer price inflation was 6.1 percent. The purchasing power of salaried workers increased more than 3 percent during the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were instances of killings and brutality by police and prison officials. Authorities prosecuted some police for such actions, although impunity remained a serious problem. Police corruption was also a problem, although the federal Government and the provincial governments in Buenos Aires and Cordoba removed corrupt police officials. Jails and prisons were often overcrowded. Police sometimes arbitrarily arrested and detained citizens. The judiciary continued to work through the legacy of human rights abuses committed during the "dirty war" of the 1976–83 military regime, and the Supreme Court ruled that crimes against humanity were not subject to statutes of limitations. Anti-Semitism remained a concern despite government efforts to combat it. A Federal Court in Buenos Aires acquitted 22 defendants charged with the 1994 bombing of the Buenos Aires Jewish Community Center. Domestic violence and sexual harassment against women were problems. There were reports of trafficking for sexual exploitation and labor. Child labor was a problem.

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, police and prison officers were responsible for killings involving the use of unwarranted or excessive force. The authorities investigated, and, in some cases, detained, tried, and convicted the officers involved.

In early December, the Coordinator against Institutional and Police Repression (CORREPI), an NGO representing the families of the victims of police abuse, estimated that domestic security forces had killed 131 persons in the first 11 months of the year. The Center for Legal and Social Studies (CELS) reported higher numbers: 139 killed between January and June in the Greater Buenos Aires area. CORREPI and CELS numbers included individuals killed in confrontations with security forces during the presumed commission of a crime. A total of 24 Federal and Province of Buenos Aires police officers were killed either in the line of duty or intervening in crimes while off duty as security forces continued to confront the surge in violent crime resulting from high unemployment and poverty levels.

On October 21, three juvenile detainees died in a fire in Buenos Aires in the Quilmes police station under suspicious circumstances. The families claimed that police beat the juveniles before the fire. Nine policemen were suspended and under investigation.

Policeman Hector Albarracin confessed to the 2003 killing of Patricia Villalba and testified to the involvement of former Santiago del Estero chief of intelligence Musa Azar and policemen Jorge Pablo Gomez and Francisco Mattar in her killing and that of Leyla Bshier Nazar. The trial of these 4 individuals and another 23 defendants charged in the murder of Patricia Villalba was scheduled for March 2005. The killing of Leyla Bshier remained under investigation.

There were no developments in the investigation of the death of Lucas Ricardo Carrizo, a prisoner who was found hanged in his cell in August 2003 in the Ezeiza Penitentiary Complex 1.

The court scheduled March 2005 for the trial of a provincial police chief for the 2002 shooting deaths of demonstrators Dario Santillan and Maximiliano Kosteki. In October, three of nine Federal Police charged in the 2002 beating and drowning of Ezequiel Demonty were found guilty and sentenced to life imprisonment; the other six policemen were sentenced to 3 years in prison.

In early August, a judge in Rosario convicted policemen Esteban Velasquez of homicide for killing Claudio Lepratti during demonstrations in 2001 in Rosario, Santa Fe, and ordered the Province of Santa Fe to compensate Lepratti's family. The Chamber of Deputies' Human Rights Committee initiated an investigation into police actions during that demonstration but did not release any information on its findings.

There were no developments, and none were expected, in the investigation into the 2001 killings of Gaston Galvan and Miguel Burgos. One policeman remained in jail in connection with these killings.

In June, policeman Felipe Gil was acquitted of charges related to the deaths of Jose Zambrano and Pablo Rodriguez in Mendoza Province in 2000. The families appealed the decision citing the judge's alleged mishandling of the case.

On September 2, the 3-judge panel of Federal Oral Court No. 3 in Buenos Aires acquitted all 22 defendants charged in connection with the 1994 terrorist bombing of the Buenos Aires Jewish Community Center (AMIA), in which 85 persons were killed (*see* Section 2.c.).

Legal efforts continued in a number of European countries, including France, Italy, and Spain, to prosecute those believed responsible for disappearances and killings during the military regime. Judicial authorities planning to prosecute these and other "dirty war" cases traveled to Spain and France to interview witnesses.

b. Disappearance.—There were no reports of politically motivated disappearances during the year.

Judicial proceedings and extradition attempts related to killings, disappearances, and torture committed by the 1976–83 military regimes continued (*see* Sections 1.a. and 1.e.).

The Under Secretariat for Human Rights, which maintained the files of the National Commission on Disappeared Persons, received 9,005 claims for financial compensation from families of those who died or disappeared during the military dictatorship. In October, a judge ordered the Government to pay compensation to a disappeared person's family on grounds that they had been forced into exile.

At the urging of the human rights organization Grandmothers of the Plaza de Mayo, judicial authorities continued to investigate an estimated 250 to 300 cases of

kidnapping and illegal adoption by members of the former military regime of children born to detained dissidents. A number of those suspected of crimes linked to illegal adoptions of the children of disappeared persons remained under detention, including Francisco Gomez and his wife and Navy doctor Jorge Luis Magnacco.

Human rights activists continued to pursue "truth trials" intended to correct official records, particularly with regard to the fate of those who disappeared and those born in captivity.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and the Criminal Code provides penalties for torture similar to those for homicide; however, some police and prison guards continued to employ torture and brutality. Human rights organizations described police brutality, the occasional use of torture on suspects, and corruption within the prison and police forces. The Government investigated some past reports of police or prison brutality; however, few cases were tried, and even fewer resulted in convictions.

Prison conditions often were poor. Some facilities were old and dilapidated, and many prisons and jails were overcrowded. Higher crime rates and stricter provisions for early release, combined with a slow judicial system, aggravated overcrowding in prisons and police stations. A July report by the Center of Legal and Social Studies on Buenos Aires Province claimed that there were more than 5,400 detainees in police station facilities designed for 3,200 and that the number of minors detained had increased significantly. Juvenile detention centers also were overcrowded, which often resulted in holding minors in police station facilities. The overcrowding contributed both to security problems and to mistreatment of prisoners. On October 21, three juvenile detainees died in a fire in Buenos Aires in the Quilmes police station and on November 13, another minor was found hanged in his cell under suspicious circumstances (*see* Section 1.a.).

On October 28, the Buenos Aires Provincial Memory Commission released a report detailing the overcrowding in the province's prisons, their substandard conditions, the mistreatment, abuse, and torture of prisoners by prison officers, and the lack of investigation and prosecution of prison officials implicated in abuse and other illegal activities. On November 15, Amnesty International (AI) presented a report to the U.N. Committee on Torture that referred to the Government's "inability and lack of political will to close the circle of impunity that exacerbates human rights abuses such as torture in every corner of the country." As an example, AI described a September 8 incident in Mendoza in which nine prisoners caught attempting to escape were repeatedly beaten, denied medical assistance, and kept naked or in their underclothing for several days.

Impunity for corruption, torture, and brutality by prison guards and officials remained a serious problem. Prisoners who filed torture and mistreatment complaints were targeted for torture or killed. Mar del Plata Batan Penitentiary senior officials and guards were under investigation for allegedly torturing Claudio Benavides and other prisoners in May. Additionally, these officials were charged with threatening to kill the prisoners' families if the prisoners filed a complaint against them. The investigating judge stated that he was convinced that this was not an isolated incident but rather reflected ordinary behavior in the penitentiary.

Male and female prisoners were held separately. The law provides that juveniles are to be held separately from adults; however, overcrowding in juvenile facilities often resulted in minors being held in police station facilities, although separated from adult detainees. Despite government regulations prohibiting the practice, reliable reports indicated that pretrial prisoners often were held with convicted prisoners.

The Government permits prison visits by independent human rights observers.

d. Arbitrary Arrest or Detention.—The Federal Code of Criminal Procedure limits arrest and detention without warrants to certain restricted situations, for example, criminals caught in the act, fleeing suspects, or overwhelming evidence of a crime being committed, and, while the Government generally observed these prohibitions, provincial police sometimes ignored these restrictions and arbitrarily arrested and detained citizens. In the past, human rights groups reported difficulties in documenting such incidents because victims were reluctant to file complaints for fear of police retaliation or inaction.

In addition to the PFA and Border Police, each province has its own police force. These generally come under a provincial police hierarchy, which in turn responds to a provincial security ministry or secretariat. The effectiveness of and respect for human rights by different forces varied considerably. Corruption was systemic in some forces, and impunity for police abuses was common.

Some of the most common abuses included contract abuses, extortion of and protection for those involved in illegal gambling, prostitution, and auto theft rings, as well as detention and extortion of citizens under the threat of planting evidence to charge them for crimes. Some police also were involved in drug trafficking and kidnapping. Addressing police corruption was difficult, in part, because the suspects intimidated whistleblowing colleagues, judicial officials, and civilian witnesses. Threats and beatings allegedly aimed to intimidate witnesses were common and, in some cases, occurred in connection with killings believed committed by members of security forces or their criminal allies.

Police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded belief that the suspects have committed, or are about to commit, a crime or if they are unable to determine the identity of a suspect. Human rights groups argued that this provision of law was disregarded to extort money from persons by threatening to charge them with illegal weapons or drug possession.

The law provides for the right of prompt determination of legality, but this right often was not respected in practice.

The law provides for the right to bail, and it was utilized in practice.

Criminal detainees were allowed access to counsel, and public defenders are provided for detainees unable to afford counsel. Lack of resources for the Public Defender's Office resulted in an overly heavy caseload for public defense attorneys. Detainees also were generally allowed prompt access to family members.

The law provides for investigative detention of persons charged with a crime but awaiting or undergoing trial for up to 2 years. This term can be extended to 3 years under certain situations: A particularly complex or serious crime; intentional delays by the defense or if investigations could be hampered by release of the detainee; or if there is serious risk of flight. The slow pace of the justice system often resulted in lengthy detentions beyond the period stipulated by law (*see* Section 1.e.). If convicted, a prisoner usually received credit for time already served. According to the Federal Bureau for Criminal Policies, approximately 62 percent of inmates in federal prisons had been charged but were awaiting trial or completion of their trials.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, while the judiciary is nominally independent and impartial, some judges and judicial personnel were inefficient and, at times, subject to, and apt to exercise, political manipulation. There were credible allegations of efforts by members of security forces and others to intimidate the judiciary and witnesses. The system was hampered by inordinate delays, procedural logjams, changes of judges, inadequate administrative support, and incompetence. Judges have broad discretion as to whether and how to pursue investigations, contributing to a sense that many decisions were arbitrary. Allegations of corruption in provincial courts were more frequent than at the federal level, reflecting strong connections between some governors and judicial powers in their provinces.

The judicial system is divided into federal and provincial courts, each headed by a Supreme Court with chambers of appeal and section courts below it. The federal courts are divided between the criminal courts and economic courts.

The Council of Magistrates submits a slate of candidates for each federal judicial vacancy to the President, whose selection is subject to Senate approval. The Council also conducts impeachment hearings of judges and administers the federal court system. In October, there were 187 vacant positions and 65 slates awaiting congressional action and 120 pending appointments by the executive.

Investigations of a number of Supreme Court justices by the Chamber of Deputies' Impeachment Committee continued, resulting in the resignation in September of Justice Adolfo Vasquez. This action followed the 2003 impeachment of Justice Eduardo Moline O'Connor and the resignations of Justices Julio Nazareno and Guillermo Lopez. On December 16, the Chamber of Deputies accused Justice Antonio Boggiano of improper performance of duties and sent the case to the Senate, which was expected to consider the case for impeachment early in 2005.

Trials are public, and defendants have the right to legal counsel and to call defense witnesses. A panel of judges decides guilt or innocence. Federal and provincial courts continued the transition to oral trials in criminal cases, replacing the old system of written submissions. Although the 1994 Constitution provides for trial by jury, implementing legislation has not been passed. Lengthy delays in trials were a problem. There is a provision for counsel for indigents; however, in practice, counsel may not always be provided due to a lack of resources. Suspects other than minors are presumed innocent, and defendants have the right to appeal, as do prosecutors.

There is a military court system. Only military personnel are subject to its jurisdiction.

In August, the Supreme Court upheld the principle of non-applicability of statutes of limitations to war crimes and crimes against humanity in the case of former Chilean intelligence agent Enrique Anacibia Clavel, charged with the 1974 Buenos Aires murder of Chilean General Carlos Prats and his wife.

Judge Claudio Bonadio's investigation into the kidnapping and killing of exiled Montonero guerrillas upon their return to the country from Chile in 1979–80 ended without any indictments. The former Montonero leaders under investigation filed suit against Bonadio for unlawful detention. Judge Rodolfo Canicoba Corral's investigation into cooperation among military and security officials of six countries as part of "Operation Condor" continued.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice.

The law provides the PFA with search, seizure, and entry powers without a court order in cases of danger.

The law provides for legislative oversight of government intelligence activities and prohibits unauthorized interception of private communications; however, in practice, the legislative oversight has yet to be effectively applied.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The independent media were active and expressed a wide variety of views without restriction. A number of independent newspapers and magazines published freely, and all print media were owned privately. Privately owned radio and television stations broadcast freely. The Federal Government owned the Telam wire service, a radio network, and a television station. A few provincial governments also owned broadcast media.

Some sources cited an increased tendency by national and provincial government agencies to withhold advertising to manipulate media coverage. The Inter American Press Association expressed concern regarding legal and other actions taken in August by the Nequen Province government against the Rio Negro newspaper, allegedly in reprisal for the newspaper's editorial policy against revealing sources. Concerns also were raised about the degree to which major print media, subject to severe financial constraints, exercised self-censorship in their criticism of the Government in exchange for favorable government treatment of debts and allocation of official advertising.

The Government did not restrict Internet access.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Although most protests and demonstrations were peaceful, there was an increase in violent demonstrations and confrontations with security forces, resulting in injuries and arrests. Security forces occasionally used rubber bullets but more often used tear gas and water cannons to disperse unruly demonstrators.

Demonstrators were detained in several instances, leading to charges that the Government was criminalizing protests. Agitators reportedly often inserted themselves into otherwise peaceful demonstrations to provoke confrontations with the police. An appeals court upheld the decision that police officer Jose Antonio Aleman should stand trial in the death of Marcelo Luis Cuellar, killed during a November 2003 demonstration in Jujuy Province.

The court set a March 2005 trial date for three Buenos Aires provincial police accused of killing two demonstrators in 2002 (*see* Section 1.a.).

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution states that the Federal Government "sustains the apostolic Roman Catholic faith," and the Government provided the Catholic Church with a variety of subsidies. Other religious faiths were practiced freely.

The Secretariat of Worship in the Ministry of Foreign Relations, International Trade, and Worship is responsible for conducting the Government's relations with the Catholic Church, other Christian churches, and other religious organizations. Religious organizations that wish to hold public worship services and obtain tax-exempt status must register with the Secretariat and report periodically to maintain their status.

Acts of discrimination and vandalism against religious minorities, particularly the Jewish and Muslim communities, continued. Combating this and other forms of intolerance was a priority for the National Institute against Discrimination, Xenophobia, and Racism (INADI). The Government continued to support a public dialogue to highlight past discrimination and to encourage improved religious tolerance. There were a number of reports of anti-Semitic acts and of threats against Jewish organizations and individuals during the year. Jewish organizations reported their continued concern but noted that there was no increase in incidents from the previous year. The most frequent incidents included anti-Semitic and pro-Nazi graffiti and posters in cities throughout the country and the proliferation of anti-Semitic publications in bookshops, as well as vandalism in the Israeli Cemetery of Ciudadela, on the outskirts of Buenos Aires.

The Supreme Court's investigation into the 1992 bombing of the Israeli Embassy in Buenos Aires remained at a virtual standstill. On September 2, the 3-judge panel of Federal Oral Court No. 3 acquitted all 22 defendants charged in connection with the 1994 terrorist bombing of the AMIA, in which 85 persons were killed. The panel faulted the investigation of the original judge and prosecutors and called for an investigation into the handling of the investigation and trial. Criminal Judge Rodolfo Canicoba Corral reconfirmed the validity of international arrest warrants against 12 Iranian nationals (including the former Iranian ambassador to Argentina at the time of the attack) and 1 Lebanese national implicated in the attack.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution and laws provide for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and it was not used.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In April 2003, presidential elections were held with no candidate receiving sufficient votes to win outright. Before a runoff could be held, former President Carlos Menem withdrew his candidacy, and, according to constitutional procedures, Nestor Kirchner was declared the winner and assumed the Presidency in May 2003.

The Government continued to pursue anti-corruption measures. Supreme Court justice Adolfo Vasquez, accused of malfeasance in office, resigned in the face of ongoing impeachment proceedings in the National Legislature (*see* Section 1.e.). The Chamber of Deputies voted to send the impeachment case of another Supreme Court justice facing the same charges to the Senate for determination. Prosecutions of a number of former government officials accused of corruption continued. Further firings of large numbers of federal and provincial police officials also continued in efforts to clean up the security forces.

In March, the Government established a federal trusteeship in the Province of Santiago del Estero following a long accumulation of accusations of corruption and abuses by provincial authorities, culminating in the February 2003 killings of two young women and a subsequent cover-up (*see* Section 1.a.). Governor Mercedes Aragones de Juarez and her 5-time governor husband Carlos Juarez were under arrest facing numerous charges.

A 2003 National Decree provided regulations to increase public access to government information within the federal executive branch and public institutions. The Senate initiated a television program to transmit sessions live, and the Chamber of Deputies' website provided information on schedules and agendas for committee meetings. The Supreme Court makes public all its decisions, both judicial and administrative.

Surveys conveyed conflicting pictures of the perceived levels of corruption in the country. Transparency International's 2004 Corruption Perceptions Index, based on polls of international businessmen and country analysts, rated the country as beset

by widespread corruption. According to a survey conducted by international consulting firm KPMG, opinion leaders, including business executives, academics, and government bureaucrats, felt that corruption in the country had significantly lessened over the past several years.

The Constitution affirms that political parties are fundamental institutions of the democratic system and calls on political parties to implement measures to increase women's representation in elective office. Decrees provide that one-third of the members of both houses of Congress must be women, a goal achieved through balanced election slates. There were 31 women in the 71-seat Senate and 87 women in the 255-seat Chamber of Deputies. The Minister of Social Development was the only woman in the cabinet. There were two female Supreme Court justices, and women were prominent in other levels of the judiciary.

There were no known indigenous, ethnic, or racial minorities in the national legislature, the cabinet, or the Supreme Court.

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

A wide variety of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. The Government usually was cooperative, although not always responsive to their views.

Among the most active human rights organizations were the Grandmothers of Plaza de Mayo, the Mothers of Plaza de Mayo Founding Line, the Center for Legal and Social Studies, the Permanent Assembly for Human Rights, Service for Peace and Justice, Coordinator Against Police and Institutional Repression, and New Rights of Man.

Within the Government, the Ministry of Justice and Human Rights' Under Secretariat for Human Rights addresses human rights concerns at a domestic level. The Directorate General of Human Rights of the Ministry of Foreign Relations is responsible for international human rights issues. The Ministry of Foreign Relations and the Ministry of Justice and Human Rights cooperated with international human rights entities.

The Constitution establishes the Office of the Ombudsman (Defensor del Pueblo de la Nacion), an independent and autonomous institution charged with defending and protecting human rights and other rights and interests provided by the Constitution, and with oversight of the exercise of public administration functions. The Ombudsman's office produces an annual report to Congress, which includes reports on human rights, administration of justice, social action, and the status of women, children, and minorities.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution and law provide for equal treatment for all citizens, and the Government generally enforced this provision in practice. The law provides for prison terms of up to 3 years for discrimination based on race, nationality, ideology, political opinion, sex, economic position, social class, or physical characteristics.

The INADI, which is mandated to identify and combat all forms of intolerance in the country, investigated violations of the anti-discrimination law and carried out research and educational programs to promote social and cultural pluralism and combat discriminatory attitudes.

Women.—Domestic violence and sexual harassment against women were recognized as serious societal problems. The Inter American Development Bank estimated that 25 percent of women were victims of violence.

Any person suffering physical or psychological domestic violence by a family member may file a formal complaint with a judge or police station, and the Law on Protection Against Family Violence gives a family court judge the right to prevent the perpetrator of a violent act from entering the victim's home or workplace. Charges may also be brought in criminal court, which may apply corresponding penalties.

Public and private institutions offered prevention programs and provided support and treatment for abused women, but there was little transitory housing. The Buenos Aires municipal government operated a small shelter for battered women and a 24-hour hotline offering support and guidance to victims of violence; however, few other shelters existed.

Nongovernmental organizations (NGOs) working in the area of women's rights stressed that women often did not have a full understanding of their rights or of what actions could be considered punishable offenses. In addition, there was a great disparity between urban centers and rural areas with respect to women's awareness of and access to equal rights.

Reliable statistics of rape were not available. Rape falls under the Law of Crimes Against Sexual Integrity. Marital and acquaintance rape involving force are offenses under the law; however, the need for proof, either in the form of clear physical injury or the testimony of a witness, often presented problems. The penalties for rape vary from 6 months to 20 years in prison.

Soliciting for prostitution is generally illegal but did occur. Some women were trafficked to the country for prostitution (*see* Section 5, Trafficking).

Sexual harassment occurred, but few complaints were lodged, likely due to a lack of information on existing legal protections. No federal law expressly prohibits sexual harassment. The city of Buenos Aires and the provinces of Buenos Aires, Jujuy, and Tucuman have anti-harassment legislation.

Women enjoyed equality under the law, including property rights; however, women encountered economic discrimination and occupied a disproportionate number of lower paying jobs. Often women were paid less than men for equivalent work, a practice explicitly prohibited by law. Approximately 70 percent of women employed outside the home worked in non-skilled jobs, although the number of women with university degrees was 7.2 percent higher than men. Women accounted for 57 percent of university enrollment, and the law bans all acts that would hinder the access or continuity of the studies for pregnant or nursing students. Approximately 46 percent of women employed outside the home did not have social security or contribute to pension funds.

The National Council of Women carried out programs to promote equal social, political, and economic opportunities for women. The Special Representative for International Women's Issues, a unit in the Ministry of Foreign Relations, participated in studying domestic law standards so as to adapt them to the rules of international law. That office and the National Council of Women, together with the Ministry of Labor and union and business organizations, formed the Tripartite Committee on Equal Opportunity for Men and Women in the Workplace, which sought to foster equal treatment and opportunities for men and women in the job market.

Other active women's rights groups included the Women's Social and Political Institute, the Women's Research and Study Institute, and the Foundation for Women's Equality.

Children.—The Government voiced strong commitment to issues of children's rights and welfare, including education and health; however, budgetary restrictions for many programs continued. National, provincial, and local agencies worked with international agencies, including UNICEF, to promote children's welfare.

Education is free, universal, and compulsory for 10 years, beginning at age 5; however, adequate schooling was unavailable in some rural areas. The 2001 census showed that 98 percent of all children of primary school age attended school, with approximately the same percentages for both genders. The average child attended school up to the age of 16.3.

There were numerous federal and provincial health care programs for boys and girls on basis of equal access, although not all children had access to them.

Child abuse and prostitution continued to occur, but there was progress in some areas. In 2003, the Council for the Rights of Girls, Boys, and Adolescents, which operated a hotline and a network of neighborhood defenders offices to assist victims in the city of Buenos Aires, intervened in 38 cases of reported child commercial sexual exploitation and 2,926 cases involving violence against a child. In conjunction with other agencies and organizations, such as UNICEF, the council also conducted active educational and awareness raising efforts. Prosecutors and police pursued cases of Internet child pornography and sought additional legal tools to confront such cybercrime.

Child labor was a problem (*see* Section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in persons for the purpose of prostitution through fraud, intimidation, or coercion, or in the case of minors; however, trafficking occurred. The law also prohibits alien smuggling, indentured servitude, and similar abuses. Other laws, including a December 2003 migration law, also may be used to prosecute crimes associated with trafficking, such as kidnapping, forced labor, use of false documents, and prostitution. Penalties for trafficking ranged from 3 years to 15 years in prison.

Coordination of trafficking detection and anti-trafficking prosecution efforts improved. The Government convened a number of interagency coordination meetings, participated in regional anti-trafficking workshops and conferences, and, late in the year, identified the Federal Office of Victim Assistance, a unit under the Federal Prosecutor's office, as the lead agency for coordinating anti-trafficking. The country's law enforcement officers lacked a clear mandate from political leaders and resources to pursue aggressively domestic and international traffickers; however, the Govern-

ment made efforts to improve its effectiveness in combating trafficking. Three traffickers were convicted and received sentences of 3 to 4 years' imprisonment; 10 other trafficking-related cases were pending.

The country was primarily a destination for men, women, and children trafficked for sexual exploitation and labor. Most foreign victims were women and children trafficked from Paraguay, Bolivia, and Brazil. Victims within the country were trafficked from rural to urban areas. Bolivians were trafficked into the country for forced labor.

Trafficking victims generally were found in situations of prostitution, but there were also cases of other forms of forced labor, such as work in illegal textile factories. Traffickers may confiscate travel documents, which prevented victims from appealing to authorities for protection. Victims, particularly women and girls in prostitution, may be denied contact with the outside world. Victims were often threatened or beaten.

There were no allegations of federal government official involvement in trafficking, and local police and officials suspected of involvement were investigated and prosecuted.

Although the country lacks a comprehensive nationwide policy of victim assistance, the city of Buenos Aires, in particular, assisted dozens of victims, and police department staffs in outlying areas included psychologists to aid victims and witnesses. Some victims qualified for federal government assistance, but most provincial officials were not trained to identify or help victims of trafficking specifically. The Ministry of Foreign Relations began to train consular officials to assist victims abroad, but no data were yet available on the number of possible victims helped. The Catholic Oblate Sisters assisted victims, offering such help as emergency shelter and counselling.

Trafficking victims normally were not detained, jailed, or deported, although some who were arrested for prostitution-related crimes may be jailed or deported.

The Government did not have a comprehensive policy to prevent trafficking, but isolated preventive measures were in place. The Government made efforts to improve its effectiveness in combating trafficking, notably in the city of Buenos Aires, where the Government established a network to conduct information campaigns, outreach, and child victim identification. In addition, the Government participated in an International Labor Organization (ILO) project to prevent and eliminate commercial sexual exploitation of children in the border region with Brazil and Paraguay.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, and the provision of other state services and mandates access to buildings for persons with disabilities; however the Government did not effectively enforce these rights in practice.

Laws mandating greater accessibility to buses and trains for persons with disabilities were not enforced fully. The Coordinator Committee for the Defense of Disabled People's Rights, composed of governmental and nongovernmental members, focused on accessibility in urban transportation for persons with disabilities and presented a complaint against the Secretariat of Transportation for non-compliance with existing regulations. No effective action was taken.

NGOs and special interest groups claimed accessibility laws and an employment quota reserving 4 percent of national government jobs for persons with disabilities often were not respected in practice. They noted that the law provided no deadlines or penalties and was not mandatory for the provinces. In October, the Buenos Aires City Legislature passed a law reserving 5 percent of city jobs for persons with disabilities. The law imposes a 5-year deadline for compliance.

Indigenous Persons.—The Constitution recognizes the ethnic and cultural identities of indigenous people and states that Congress shall protect their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and allow for their participation in the management of their natural resources; however, in practice, indigenous people did not participate in the management of their lands or natural resources. The National Institute of Indigenous Affairs is the government agency responsible for implementing these provisions.

The principal indigenous groups—the Kollas in Salta and Jujuy, the Mapuches in the Patagonian provinces, and the Wichis and Tobas in the northern provinces—were believed to represent less than 5 percent of the national population. Estimates of the number of indigenous persons varied widely, with the Association of Indigenous Communities estimating between 4 to 5 million, and the last official census indicating 1.75 million.

Poverty rates were higher than average in areas with large indigenous populations. Indigenous people had higher rates of illiteracy, chronic disease, and unemployment. Government efforts to offer bilingual education opportunities to indigenous people continued to be hampered by a lack of trained teachers.

Individuals of indigenous descent from the northern part of the country, as well as from Bolivia, Peru, and other Latin American countries, reportedly were subjected frequently to verbal insults because of their dark skin.

Some communities were involved in land disputes with provincial governments and private companies, particularly over questions of natural resource extraction, pollution, and road construction. In June, a Mapuche family in the Province of Chubut was acquitted on charges of unauthorized appropriation of lands, although the family lost its claim to the land in question. Compania de Tierras Sud Argentino brought the suit before civil and criminal courts. Atilio Curinnaco, a member of the accused family, claimed an ancestral entitlement to the lands.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right to form "free and democratic labor unions, recognized by simple inscription in a special register," and workers exercised this right. With the exception of military personnel, all workers were free to form unions. An estimated 35 percent of the work force was organized. Trade unions were independent of the Government and political parties.

Labor groups not affiliated with the General Confederation of Labor contended that the Professional Associations Law provision for legal recognition of only one union per sector conflicts with ILO Convention 87.

The law prohibits antiunion discrimination and requires employers to reinstate workers illegally dismissed for union-related activities.

b. The Right to Organize and Bargain Collectively.—The Constitution provides unions with the right to negotiate collective bargaining agreements and to have recourse to conciliation and arbitration. The Ministry of Labor, Employment, and Social Security ratifies collective bargaining agreements, which cover roughly three-fourths of the formally employed work force. According to the ILO, the ratification process impedes free collective bargaining because the Ministry not only considers whether a collective labor agreement contains clauses violating public order standards but also considers whether the agreement complies with productivity, investment, technology, and vocational training criteria. However, there were no known cases during the year when the Government refused to approve any collective agreements under the above criteria.

The Constitution provides for the right to strike, and workers exercised this right. Numerous small-scale strikes generally protested sector-specific problems.

There are three functioning export processing zones with many others legally registered but not active. The same labor laws apply within these zones as in all other parts of the country.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor was a problem, and the Government continued its effort to develop and implement a national plan of action to eliminate it.

The Law on Labor Contracts sets the minimum age for employment at 14 years, and, in rare cases, the Ministry of Education may authorize a younger child to work as part of a family unit. Children between the ages of 14 and 18 may work in a limited number of job categories and for limited hours if they have completed compulsory schooling, which normally ends at 15. The penalty for employing underage workers ranged from $350 to $1,750 (1,000 to 5,000 pesos) for each child employed.

In 2002, the most recent year for which data was reported, the Ministry of Labor estimated that 7.1 percent of children ages 5 to 14 worked. In June, the National Commission for the Eradication of Child Labor (CONAETI) estimated that up to 1.5 million children, or 23 percent of the child population under the age of 15, worked in some capacity. The rate was believed to be higher in rural areas.

Child labor in urban zones increased following the 2001 economic crisis and included such work as trash recycling, street sales, domestic labor, and food preparation. Children also were involved in prostitution, sex tourism, and drug trafficking, although firm statistics were unavailable (*see* Section 5).

CONAETI worked with unions and other groups to train rural child labor monitors, and with provincial authorities in the tri-border area to undertake activities to address child sexual exploitation. The program director in Puerto Iguazu had received approximately 60 reports of child sex exploitation and, at year's end, was

working with 15 minor girls and their families to provide counseling and to get the girls back into school.

e. Acceptable Conditions of Work.—The monthly national minimum wage increased from $105 to $150 (300 to 450 pesos); however, it still did not provide a decent standard of living for a worker and family. Most workers in the formal sector earned significantly more than the minimum wage.

Federal labor law sets standards in the areas of health, safety, and hours. The maximum workday is 8 hours, and the maximum workweek is 48 hours. Overtime payment is required for hours worked in excess of these limits. The law also sets minimums for periods of rest and paid vacation. However, laws governing acceptable conditions of work were not enforced universally, particularly for workers in the informal sector who constituted an estimated 40 percent of the workforce.

The law requires employers to insure their employees against accidents at the workplace and when traveling to and from work. Workers have the right to remove themselves from dangerous or unhealthy work situations without jeopardy to continued employment. However, workers who leave the workplace before it has been proven unsafe risk being fired; in such cases, the worker has the right to judicial appeal, but the process can be very lengthy.

BAHAMAS

The Commonwealth of the Bahamas is a constitutional, parliamentary democracy governed by a prime minister, a cabinet, and a bicameral legislature, with an appointed governor general. Prime Minister Perry Christie's Progressive Liberal Party (PLP) regained control of the Government after May 2002 elections that observers found to be generally free and fair. The judiciary is independent.

The Royal Bahamas Police Force (RBPF) maintains internal security, and the small Royal Bahamas Defence Force (RBDF) is responsible for external security and some minor domestic security functions such as guarding foreign embassies and ambassadors; both answer to civilian authority. There continued to be reports that security forces occasionally committed human rights abuses.

The country has a market-based economy that depends primarily on tourism, which accounts for 60 percent of the gross domestic product. The country's population is approximately 310,000, not including an additional estimated 30,000 illegal Haitian immigrants. Financial services, particularly offshore banking and trust management, are also major sources of revenue. While many citizens enjoyed relatively high income levels, there was considerable underemployment and poverty. The unemployment rate was estimated at 10.2 percent in March, but may have temporarily increased following the hurricane season.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. There were reports of unlawful killings by police and that police occasionally beat and abused detainees. Conditions at the prison and detention center remained harsh. The police occasionally used arbitrary arrest and detention. Lengthy pretrial detention and delays in trials were problems. Violence and discrimination against women and violence against children also were problems. Discrimination against persons with disabilities and persons of Haitian descent persisted.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings by the Government or its agents; however, there were reports that the RBPF committed unlawful killings. Police killed four persons the year, and the cases remained under investigation before the Coroner's Court at year's end.

In February 2003, the body of a young man was found on the Grand Bahama Freeway. Although the family of the victim made allegations of police mistreatment, further investigation by the Coroner's Court during the year indicated that the victim's wounds were the result of a traffic accident.

There were no new developments in the case of the August 2003 killing of a 16-year-old girl by a RBPF reserve police officer or the 2002 police shooting of a young man. At year's end, these cases were still before the Coroner's Court.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and other cruel and degrading treatment or punishment; however, the police occasionally beat or otherwise abused suspects. Many past allegations of abuse involved beatings to extract confessions; however, no formal complaints involving beatings to extract confessions were filed during the year. Local media reported an increase in allegations of police brutality and police shootings in particular. Human rights monitors and members of the public continued to express concern over such instances of police abuse of criminal suspects. Police officials, while denying systematic or chronic abuses, acknowledged that police on occasion abused their authority and pledged to address any wrongdoing by police officers (*see* Section 1.d.).

In February, a detained 19-year-old from Grand Bahama claimed he was stripped, handcuffed to a tree, and beaten with a metal pipe to extract a confession. He was released, but, subsequently, he was charged with attempted armed robbery, and the case was pending a court decision. The Chief of Police in Grand Bahama admitted this was "not an isolated event," and investigators were sent from New Providence Island to conduct inquiries; however, there were no further developments in the case at year's end.

Conditions at Her Majesty's Prison at Fox Hill, the only prison, remained harsh. Overcrowding was a major problem. The men's maximum-security block, originally built in 1953 to hold 400 to 600 inmates, held more than 800 of the approximately 1,400 total inmate population. The remaining prisoners were housed in medium- and minimum-security units that were at, or above, intended capacity. Opened in 2002, the Remand Center provided some overcrowding relief. However, prison officials estimated there were approximately 700 prisoners awaiting trial, many of whom were confined in cells with convicted prisoners. The recidivism rate at Fox Hill Prison was 69 percent.

Prisoners initially were assigned to the Maximum Security Unit before a housing determination was made as a means of "breaking them in" to prison life. Male prisoners were crowded into poorly ventilated cells that generally lacked regular running water, toilets, and laundry facilities. Most prisoners lacked beds. Many of them slept on concrete floors and were locked in small cells 23 hours per day. Maximum-security inmates were allowed outside for exercise 4 days a week for 1 hour per day. Inmates reported that food service operations improved from the previous year due to a professional staff overseeing the inmate cooking staff; however, some unsanitary conditions in food preparation remained.

Prison officials estimated that approximately 8 percent of the prison population was infected with the HIV virus and one-third suffered from tuberculosis. Amnesty International (AI) stated in a 2003 report that the HIV infection rate was closer to 20 percent.

Organizations providing aid, counseling services, and religious instruction had regular access to inmates. The Government provided limited funds for improvements in prison facilities and prisoner rehabilitation programs. Prison officials instituted some technical and vocational programs, and correctional officers were undergoing instruction to become certified trainers, although the process was hindered by resource constraints. A farming program for the prisoners to become more self-sufficient continued during the year, although the program has decreased in size pending the purchase of an additional 10 acres. Modern training facilities were equipped with new computers, and the prison also offered some educational and literacy programs for prisoners; however, less than 25 percent of inmates participated in these programs. In October, the Ministry of National Security held a 3-day symposium to discuss prison reform.

In February, authorities reopened an investigation into the 2000 death of Sidney McKenzie, a Fox Hill Prison inmate, after fellow inmates who initially had refused to testify for fear of retaliation told the courts that a prison guard beat and killed him. The investigation was ongoing at year's end.

Women were held separately from male prisoners. The prison's female population was approximately 40 inmates, considerably less than the female unit's full capacity of 200. Conditions for women were less severe, and the facilities had running water. However, women did not have access to the technical or vocational programs available to male prisoners.

The maximum-security building has a separate section for juvenile offenders between the ages of 16 and 18. There was occasional mixing of juveniles with adult inmates depending upon the severity of their crimes. Offenders younger than 16, along with children made wards of the court by their parents because of "uncontrollable behavior," were housed at the Simpson Penn Center for Boys and the Williamae Pratt Center for Girls.

In October 2003, two girls died and a third was injured severely in a fire at the center. The girls were found in a padlocked room. At year's end, a trial was ongoing to determine whether the Center employed adequate fire safety procedures to evacuate the children. Employees at the center suggested that there were no functioning fire extinguishers, and that a fire drill had not taken place for many years. An investigation by the Attorney General's office was ongoing at year's end. Fire drills at the Willie Mae Pratt Center and the Simpson Penn Center for Boys have since recommenced.

The Migration Detention Center on Carmichael Road can hold up to 500 detainees (with tent space for an additional 500), and women and men were housed separately. Haitians and Cubans were the most commonly interdicted migrants. The highest occupancy during the year was approximately 700 in spring, with an additional 250 at a temporary holding facility on the island of Great Inagua. Children under the age of 14 were held in the women's dormitory. Many children arriving with both parents were not allowed contact with the father. Despite the potential of being held for long stretches of time, these children did not have access to educational materials or a place to exercise and play. A foreign government donated money to install a water purification system at the center to provide migrants with clean drinking water.

In October, allegations of abuse against Haitian, Cuban, and Jamaican inmates, including women and children, and rumors of untreated tuberculosis at the Detention Center were made public. Inmates also complained of poor food quality, lack of potable drinking water, and brutality by security officers. In December, following a statement by the Minister of Immigration to Parliament that the allegations were baseless, Cuban detainees burned a dormitory at the center.

Domestic and international human rights groups visited the prison and detention center during the year.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, police occasionally arrested and detained persons arbitrarily. In general, the authorities conducted arrests openly and, when required, obtained judicially issued warrants.

The 3,000-member RBPF is commanded by a Commissioner who is supported by a Deputy Commissioner, four Assistant Commissioners, and a Director of Human Resources. The RBPF is divided into three districts: Headquarters, New Providence/Southern Bahamas, and Grand Bahama/Northern Bahamas.

The Police Complaints and Corruption Branch, which reports directly to the Deputy Commissioner, was responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant disciplinary action within the police system or, in some cases, criminal prosecution by the Attorney General. Local human rights observers doubted the police force's ability to investigate itself impartially in cases of alleged abuse and misconduct and believed that many incidents of improper police behavior were unreported. The Government appointed a four-person committee to oversee the complaints and corruption branch; members report directly to the Minister of National Security and consult with the Police Commissioner. Police officials insisted that their investigations were fair and thorough. A police officer involved in shooting or killing a suspect automatically is placed under investigation. In addition, the officer's weapon and permit are taken, and the officer must undergo mandatory counseling. There were 330 complaints against the police during the year, compared with 302 in 2003. Of these 330 cases, 165 remained under investigation at year's end. Following investigations into complaints against police during the year, including assault, wrongful arrest, and excessive use of force, two police officers were imprisoned, three were dismissed from the RBPF, and four were charged before the Magistrate's Court. Police officials believed that continuing turnover in personnel was a contributing factor in disciplinary cases.

The law provides that a suspect must be charged within 72 hours of arrest. Arrested persons appear before a magistrate within 72 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. Serious cases, including those of suspected narcotics or firearms offenses, do not require warrants where probable cause exists. Some persons on remand claimed they were not brought before a magistrate within the 72-hour time frame. The Government generally respected the right to a judicial determination of the legality of arrests.

The Bail Act prohibits bail for repeat offenders and those accused of certain violent crimes. Judges sometimes authorized cash bail for foreigners arrested on minor charges; however, in practice, foreign suspects generally prefer to plead guilty and pay a fine rather than pursue their right to defend themselves, given possible delays

in court cases and harsh conditions in the prison. Many foreign suspects paid bail and fled the country to avoid prosecution and extended detention.

Arrested persons may hire an attorney of their choice; however, the Government only provided legal representation to destitute suspects charged with capital crimes. In a 2003 report, AI estimated that 41 percent of inmates did not have legal representation at their trial. Some local legal professionals and human rights observers believed that this lack of representation risked hasty convictions on the basis of unchallenged evidence, particularly in the case of poor or illiterate defendants.

In September, authorities released a Jamaican national after the Supreme Court ruled that he had been unlawfully detained for 14 years. The Jamaican completed a court-mandated 14-year sentence for manslaughter in 1989, but a lack of effective record keeping following his release and confusion about his nationality resulted in his detention for 14 more years without additional charge. The matter subsequently was resolved and he was released with an apology following the filing for a writ of habeas corpus.

Attorneys and other prisoner advocates continued to complain of excessive pretrial detention (*see* Section 1.e.). The Constitution mandates that suspects can be held for a "reasonable period of time" before trial. It was not unusual for a murder suspect to be held 2 years before trial and on occasion up to 4 years. A 2003 AI report stated that, in August 2002, at least 735 of the over 1,000 prisoners at Fox Hill were awaiting trial. The same report revealed that 78 pretrial prisoners had been on remand for over 2 years.

The authorities detained illegal immigrants, primarily Haitians and Cubans, at a detention center located off Carmichael Road until arrangements could be made for them to leave the country, or they obtained legal status. Haitians usually were repatriated within 48 hours, due to increased cooperation between Bahamian and Haitian authorities and improved efficiency in processing. Average length of detention varied significantly by nationality and availability of funds to pay for repatriation. Illegal immigrants convicted of crimes other than immigration violations were held at Fox Hill prison, where they often remained for weeks or months after serving their sentences, pending deportation.

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

Magistrate's courts are the lowest level courts and only handle crimes with a maximum sentence of 5 years. Trial by jury is available only in the Supreme Court, which is the trial court that handles most major cases. Defendants enjoy a presumption of innocence until proven guilty and are permitted to question witnesses at trial. There is a functioning system of bail; however, individuals who cannot post bail are held on remand for indefinite time periods. Magistrate court decisions may be appealed to the Court of Appeal; the Privy Council in London is the final court of appeal. The Governor General appoints judges on the advice, in most cases, of the independent Judicial and Legal Services Commission.

The justice system derives from English common law. The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judicial system had a large backlog of cases, and delays reportedly lasted as long as 2 years. To reduce the backlog, the Government continued the process of streamlining appeals, computerizing court records, and hiring new judges, magistrates, and court reporters. During the year, the Court of Appeals reported that it reduced its backlog to 6 months.

Despite these measures to improve efficiency, complaints persisted of excessive pretrial detention, outdated record keeping, delayed justice for victims, and a failure to update new laws in the books. Some judges have been recruited from abroad. There were isolated complaints of deviations from normal, fair court proceedings—particularly in civil matters—but there were no indications that this was a widespread problem.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The law usually requires a court order for entry into or search of a private residence; however, a police inspector or more senior police official may authorize a search without a court order where probable cause to suspect a weapons violation or drug possession exists.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

Three daily and several weekly newspapers, all privately owned, expressed a variety of views on issues of public interest, including varying degrees of criticism of the Government and its policies. Foreign newspapers and magazines were readily available.

There is a government-run radio station and five privately owned radio broadcasters. The country has two television stations, one operated by the state-owned Broadcasting Corporation of the Bahamas, and a privately owned station. The state-owned station presented a variety of views, although opposition politicians claimed, with some justification, that their views did not receive as extensive coverage as those of the Government.

The Government did not restrict Internet access.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Groups must obtain permits to hold public demonstrations, and the authorities generally granted such permits.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution explicitly calls for respect for Christian values. There were no allegations of religious freedom violations during the year.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

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

The country is a signatory to both the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government has not established a consistent system for providing protection to all refugees and asylum seekers. The Government particularly faced difficulties with regard to Haitian migrants. All Cuban migrants were given the opportunity to apply for asylum. In practice, the Government provided protection against refoulement, the return of persons to a country where they faced persecution, and applications for political asylum were adjudicated on a case-by-case basis at the cabinet level.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government asserted that all migrants who claimed asylum were interviewed by trained immigration officials; however, this claim was disputed by AI. The UNHCR reviewed the interview records of cases they were provided and offered recommendations on certain cases. Local and international human rights observers criticized the Government for failing to screen potential asylum applicants adequately. These organizations claimed that some Haitians with a legitimate fear of persecution were repatriated without having the opportunity to make a claim for asylum. There was a lack of Creole-speaking immigration officers, and Haitian migrants often were unaware of their right to claim asylum, resulting in limited requests for asylum screening. In addition, those requesting asylum screening often lacked access to legal counsel.

The Department of Immigration reported that 3,034 persons were repatriated to their home countries during the year. The authorities did not grant asylum during the year.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The country is a constitutional, parliamentary democracy governed by a prime minister and a bicameral parliament. General elections are held at least every 5 years. The political process is open to all elements of society, and citizens 18 years of age and older are eligible to register and vote. Voting is by secret ballot. The two principal political parties are the ruling PLP and the opposition Free National Movement (FNM). In 2002, the PLP won 29 of 40 seats in the House of Assembly and formed the new Government under Perry Christie. The FNM won seven seats, and independents won four. Both the ruling party and the opposition name members to the upper house, the Senate, in compliance with constitutional guidelines. Although it passes legislation, the Senate is primarily a deliberative body that serves as a public forum to discuss national problems and policies.

There were no laws providing for public access to government information; however, in practice, the Government provide such access in most cases.

The 40-seat House of Assembly had 8 elected female members; there were 7 appointed female senators, including the President of the Senate. A woman served as Deputy Prime Minister and Minister of National Security. Women also headed several other ministries.

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

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

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Government generally respected in practice the constitutional provisions for individual rights and freedoms regardless of race, place of origin, political opinion, creed, or sex. However, the Constitution and the law contained certain provisions that discriminated against women.

Women.—Violence against women continued to be a serious, widespread problem. During the year, the RBPF reported that 12 of the 44 recorded killings were the result of domestic violence, a 5 percent increase from 2003. Women's rights groups cited a general reluctance on the part of law enforcement authorities to intervene in domestic disputes and a lack of police training and sensitivity in dealing with domestic violence. The police recognized domestic violence as a high priority and provided specialized training for all incoming officers and offered continuing training in domestic violence. The police force specifically made efforts to increase awareness of domestic violence in the Family Islands. The courts impose various legal constraints to protect women from abusive spouses or companions. Advocates for women's rights saw a need to improve the effectiveness of enforcement of court orders.

The Government operated a toll-free hotline in New Providence and Grand Bahama, with trained volunteers to respond to emergency calls 24 hours a day. Government and private women's organizations conducted public awareness campaigns highlighting the problems of abuse and domestic violence. The Ministry of Social Services, in partnership with a private company, operated a safe house to assist battered women.

Rape, including spousal rape, is illegal. The maximum penalty for a first-time offender is 7 years and, in the case of a second or subsequent conviction, the penalty is 14 years. On occasion, rapists are given life sentences. Some rape accusations brought by foreign victims did not result in formal charges. The RBPF issued a report stating there were 86 rapes reported during the year, down from 111 in 2003. More than half of the victims knew their attacker. The RBPF credited public outreach programs and the involvement of the Department of Social Services, the Crisis Center, and the Adolescent Clinic for this decrease. Prosecutions and convictions on rape charges were common, and the maximum penalty was frequently applied.

Prostitution is illegal. On November 7, police raided a local strip club and arrested all 76 persons present, including locals and nationals from several foreign countries. Several individuals were charged with "soliciting for immoral purposes." Police placed plainclothes officers in various nightclubs to monitor illegal activities. Police officials acknowledged that sex entertainment was a developing industry.

The Constitution does not provide women with the same right as men to transmit citizenship to their foreign-born spouses. The law also makes it easier for men with foreign spouses to confer citizenship on their children than for women with foreign spouses. Some inheritance laws also favored men over women. Prominent women of all political persuasions continued to push for an amendment to the Constitution and revision of related laws to redress this situation.

Women participated fully in society and were well represented in the business and professional sectors.

Children.—The Government claimed child welfare and education were priorities, but lacked sufficient funding to maintain and improve standards.

Public schools, in particular, lacked basic educational materials, and facilities were overcrowded and substandard. Public education is compulsory for children through the age of 16, and most children attend school until this age. Cultural biases often forced unwed, pregnant teenagers to leave public schools, and a quasi-governmental group sought to create an alternative school program for these girls. The Ministry of Social Services is responsible for abandoned children up to 18 years of age, but had very limited resources at its disposal. The government hospital housed 19 abandoned children (all of whom had physical disabilities) during the year, as there was no effective foster care program in which to house them.

Both the Government and civic organizations conducted intensive public education programs aimed at the problem of child abuse and appropriate parenting behavior; however, child abuse and neglect remained serious problems. During the summer months, the RBPF operated a hotline in response to an increase in the number of reports of missing or exploited children.

From January through November, the Ministry of Social Services reported 539 cases of child abuse, including 45 reports of incest, 142 reports of physical abuse, 80 reports of sexual abuse, 260 reports of neglect, 3 reports of verbal abuse, and 9 reports of abandonment. The Ministry estimated that only one-third of cases were reported.

The law requires that all persons who have contact with a child they believe to be sexually abused report their suspicions to the police. However, the same reporting requirement does not apply to cases of physical abuse, which health care professionals believed occurred quite frequently. The police referred reported cases of sexual and physical abuse to the Ministry of Social Services, which investigates them and can bring criminal charges against perpetrators. The Ministry may remove children from abusive situations if the court deems it necessary. In May, the Ministry reopened a center for abused and neglected children.

Trafficking in Persons.—There are no laws that specifically address trafficking in persons; however, there were no reports that persons were trafficked to, from, within, or through the country, although the lack of a legal distinction may have obscured trafficking within the vulnerable illegal migrant communities. The Penal Code bans prostitution, and the maximum penalty is 5 years' imprisonment. The Code also prohibits the procurement of persons for purposes of prostitution either in or outside the country by force, threats, intimidation, or the administering of drugs and carries a penalty of 8 years' imprisonment. In June and November, the International Organization for Migration, in conjunction with other organizations, held seminars to inform relevant authorities of anti-trafficking methods, including preventative measures and raising awareness.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Although the law mandates certain accommodations for persons with physical disabilities in new public buildings, the authorities rarely enforced this requirement. There were housing units in Nassau designed specifically for persons with disabilities, but very few buildings and public facilities were accessible to them. Parking for persons with disabilities was provided in most parking lots. Advocates for persons with disabilities complained of widespread job discrimination and general apathy on the part of private employers and political leaders toward the need for training and equal opportunity.

The Disability Affairs Unit of the Ministry of Social Development and National Insurance worked with the Bahamas Council for Disability, an umbrella organization of nongovernmental organizations that offered services for persons with disabilities, to provide a coordinated public and private sector approach to the needs of persons with disabilities. A mix of government and private residential and nonresidential institutions provided limited education, training, counseling, and job placement services for adults and children with both physical and mental disabilities.

In December, the Bahamas Council for Disability held a symposium in conjunction with the Ministry of Social Services. During the symposium, participants voiced concerns about the draft Anti-Discrimination of Persons with Disabilities Bill.

National/Racial/Ethnic Minorities.—Unofficial estimates suggest that between 20 and 25 percent of the population are Haitians or citizens of Haitian descent, making them the largest and most visible ethnic minority in the islands. While 30,000 to 40,000 Haitian citizens (approximately 10 percent of the total population) resided in the country legally, some observers believed that an equal or greater number were in the country illegally. Haitian children were granted access to education and social services. Children born in the country of non-Bahamian parents or to a Bahamian mother and a non-Bahamian father do not automatically acquire citizenship.

Although Haitians and Bahamians of Haitian descent generally were well integrated into society, nonviolent interethnic tensions and inequities persisted. Some members of the Haitian community complained of discrimination in the job market, and resentment concerning continued Haitian immigration was widespread. For example, individuals born in the country to Haitian parents were required to pay the tuition rate for foreign students while waiting for their request for citizenship to be processed. However, reports of ethnic violence or blatant discrimination against legally resident Haitians were scarce.

Other Societal Abuses and Discrimination.—Social discrimination against homosexuals was evident. Although homosexual relations between consenting adults are legal, there is no legislation to address the human rights concerns of homosexuals, lesbians, bisexuals, or transgendered persons. The Parliament passed the Employment Bill of 2001 only after removing a clause barring discrimination in the workplace based on sexual orientation.

In July, several religious groups protested the Government's acceptance of a port visit from a cruise ship catering to gay families. Widespread homophobia and religiously based objection to homosexuality led to reports of job termination following disclosure of sexual orientation and discrimination in housing.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides labor unions with the right of free assembly and association, and workers exercised these rights in practice. Private sector and most public sector workers may form or join unions without prior approval. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions. Almost one-quarter of the work force (and 80 percent of the workers in the important hotel industry) belonged to unions.

Under the law, labor disputes first are filed with the Ministry of Labor and then, if not resolved, are transferred to an industrial tribunal. The tribunal follows normal court procedures for the admission of evidence, direct examination, and cross-examination. The tribunal's decision is final and only can be appealed in court on a strict question of law. Some employers complained that the industrial tribunal was biased unfairly in favor of employees.

b. The Right to Organize and Bargain Collectively.—Workers freely exercised their right to organize and participate in collective bargaining, which the law protects. Unions and employers negotiated wage rates without government interference.

The law provides for the right to strike, and workers exercised this right in practice; however, the Government has the right to intervene in the national interest to assure delivery of essential services. The Industrial Relations Act requires that, before a strike begins, a simple majority of a union's membership must vote in favor of a motion to strike. The Ministry of Labor must supervise the vote. Several unions threatened several work stoppages against both public and private employers during the year.

Freeport is a specially designated free trade zone. Labor law and practice in this zone do not differ from those in the rest of the country. However, human rights advocates asserted that the Port Authority has allowed the Hong Kong-based company Hutchison-Whampoa, which owns the harbor, airport, and many major hotels in Freeport, to discourage unions.

In June, 300 Freeport workers went on a 5-day strike to protest the firing of a coworker who had led an unofficial labor union within Hutchison-Whampoa. Approximately 30 workers subsequently were fired for taking part in the strike.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under the age of 14 for industrial work or work during school hours; however, some children worked part time in light industry and service jobs. Children under the age of 16 may not work at night. There was no legal minimum age for employment in other sectors. The Ministry of Labor and Immigration is responsible for enforcing these laws.

e. Acceptable Conditions of Work.—The minimum wage for government employees, set in 2000, was $4.45 (B$4.45) per hour. A minimum wage for the private sector was established in 2002 at $4.00 (B$4.00) per hour. In view of the high cost of living, these minimum wages did not provide a decent standard of living for a worker and family. The law provides for a 40-hour workweek, a 24-hour rest period, and requires overtime payment (time and a half) for hours worked beyond the standard workweek.

The Ministry of Labor is responsible for enforcing labor laws and has a team of inspectors that conducts on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints; however, inspections occurred infrequently. The Ministry normally announced inspection visits in advance, and employers generally cooperated with inspectors to implement safety standards.

The national insurance program compensates workers for work-related injuries. The Fair Labor Standards Act requires employers to find suitable alternative employment for employees injured on the job but still able to work. The law does not

provide a right for workers to remove themselves from dangerous work situations without jeopardy to continued employment.

BARBADOS

Barbados is a longstanding constitutional democracy with a multiparty, parliamentary form of government. In the May 2003 parliamentary elections, which were considered generally free and fair, citizens returned Prime Minister Owen Arthur of the Barbados Labour Party (BLP) for a third successive term in office. The judiciary is independent.

The Royal Barbados Police Force (RBPF) numbers 1,283 with an additional 123 Special Constables and is responsible for internal law enforcement. The small Barbados Defense Force (BDF) maintains national security and may be called upon to maintain public order in times of crisis, emergency, or other specific need. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed some human rights abuses.

The market-based economy relied on tourism, services, light manufacturing, and agriculture. The country's population is approximately 278,000. The Government was the largest employer, employing about 20 percent of the workforce. Real economic growth was estimated at 2.9 percent and the average inflation rate was approximately 1.4 percent. The unemployment rate fell to 10 percent compared with 11.7 in 2003.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. There were occasional allegations of excessive use of force by police and reports of poor prison conditions. Societal violence against women and children remained problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, security forces killed five persons, including two persons during the arrest process, and two individuals who suffered from mental illnesses. In April, police revamped the use of force policy to provide non-lethal means of incapacitating a suspect. All cases remained under investigation at year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution specifically prohibits torture and inhuman or degrading punishment or other treatment; however there were reports that police sometimes used excessive force. The majority of complaints against the police alleged unprofessional conduct and beating or assault. A Police Complaints Authority was established in September, and by year's end there were 12 complaints filed against the police. Authorities filed charges against three police officers accused of using excessive force against two citizens. In May, three off-duty plainclothes officers beat two spectators following a cricket match. The officers involved were suspended until the trial, which had not occurred at year's end.

Police procedures provide that the police may question suspects, and other persons they hold, only at a police station, except when expressly permitted by a senior divisional officer. An officer must visit detainees at least once every 3 hours to inquire about the detainees' condition. After 24 hours, the detaining authority must submit a written report to the Deputy Commissioner. The authorities must approve and record all movements of detainees between stations. Police regularly were accused of beating suspects to obtain confessions; suspects often recanted their confessions during their trial. There were numerous cases where the only evidence against the accused was a confession.

Prison conditions remained inadequate. The sole adult prison (Glendairy) was antiquated and overcrowded, with more than 1,006 male and female inmates in a 150-year-old structure built for 350 inmates.

There is a separate wing for female prisoners at the adult prison. The sole juvenile prison has separate facilities for boys and girls. There are separate areas for pretrial detainees and convicted prisoners at the prison; however, there was occasional mixing due to space constraints.

The Government allowed private groups to visit prisons to observe conditions, and such visits occurred during the year.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and imprisonment, and the Government generally respected these prohibitions in practice.

The RBPF is responsible for internal law enforcement. Although the police largely were unarmed, special RBPF foot patrols in high crime areas carried firearms in response to public concern. An armed special rapid response unit continued to operate. The law provides that the police can request the BDF to assist them as needed with special joint patrols.

The Office of Professional Responsibility, headed by a superintendent, handled complaints of inappropriate police conduct. In September, the independent Police Complaints Authority began operating to review complaints against the police. The authority reported 12 complaints filed by year's end.

Police are authorized to arrest persons suspected of criminal activity. The Constitution permits detainees to be held without charge for up to 1 week; however, once charged, detainees must be brought before a court of law without unnecessary delay. During the year, two detainees were released after 2 years in prison because the Government failed to bring their cases to court. There is a functioning bail system. Criminal detainees were given prompt access to counsel and were advised of that right immediately after arrest. Access to family members generally was permitted.

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

The judiciary includes the court of first instance, or Magistrate's Court, and the Supreme Court, which consists of the High Court and Court of Appeals. The Governor General, on the recommendation of the Prime Minister and after consultation with the leader of the opposition, appoints the Chief Justice and other judges. Judges serve until the age of 65.

The Constitution provides that persons charged with criminal offenses be given a fair public hearing without unnecessary delay by an independent and impartial court, and the Government generally respected this right in practice. The judicial system provides for the right of due process at each level. The law presumes defendants innocent until proven guilty. The Government provided free legal aid to the indigent in family matters, child support, criminal cases such as rape or murder, and all cases involving minors.

There is a limit of approximately $2,100 (BP 1,300) on expenses incurred for appeals by death row prisoners to the Privy Council in London. Two inmates challenged this limit and sued the Government on the grounds that it effectively deprived them of their right to due process. The case was pending at year's end.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

The Government did not censor mail; however, the Government restricted the receipt and importation of foreign publications deemed to be pornographic.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The independent media were active and expressed a wide variety of views without restriction. There were two independent daily newspapers, both of which presented opposition political views. There were nine radio stations, three of which were owned by the Government. The Caribbean Broadcasting Corporation (CBC) television service (the only television source, excluding direct satellite reception) was government owned. Although CBC was a state enterprise, it regularly reported views opposing government policies.

In October, the CBC refused to air a program critical of police conduct in restricting media access during a high profile wedding.

The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. The law requires police approval for public assemblies, which was granted routinely. Gatherings related to school activities do not require written police permission.

A court date still had not been set after students filed charges in 2003 against members of the police for using excessive force in response to student demonstrations at the University of the West Indies in 2001. All parties remained free on bail.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. While the predominant religion was Christianity, members of many other religions worshipped freely.

For more detailed information, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and it was not used.

The Government has not formulated a policy regarding refugees or asylum. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Political parties compete in free and fair elections by secret ballot at least every 5 years. All citizens over the age of 18 may vote. The Prime Minister exercises executive power along with the Cabinet of Ministers that he appoints, balanced by the bicameral Parliament and the judicial system. In the May 2003 elections, the BLP, led by Prime Minister Owen Arthur, won its third parliamentary election, returning to office with a 23 to 7 seat majority over the Democratic Labor Party.

Access to information was provided on government websites; however, requests for specific government information by citizens and other interested parties often were delayed for excessive periods of time.

Approximately one-third of cabinet members were women, including the Deputy Prime Minister, who was served concurrently as the Attorney General and Minister of Home Affairs. There were 4 women and no minorities in the 30-seat Parliament. There were 7 women and 3 minorities in the 21-member Senate.

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

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

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equal treatment under the law, regardless of race, religion, or sex, and the Government generally respected these rights in practice.

Women.—Violence and abuse against women continued to be significant social problems. One official reported that one of every five injured women treated in the emergency room was a victim of domestic violence. The Police Commissioner stated that there were 84 rapes reported during the year. Spousal abuse remained a significant problem during the year, despite legal protections against spousal rape for women holding a court-issued divorce decree, separation order, or nonmolestation order.

The Domestic Violence Law provides protection to all members of the family, including men and children, and applies equally to marriages and to common law relationships. Criminal penalties for violent crimes were the same regardless of the sex of the offender or the victim; however, in practice, female offenders usually received lighter sentences than their male counterparts for similar offenses. Penalties depend on the charge and severity and include a fine for a first time offense (unless the injury is serious) up to the death penalty for a killing. Police reported 491 complaints of domestic violence. The courts heard a number of cases of domestic violence against women involving assault or injury. Victims may request restraining orders, which the courts often issued. The courts can sentence an offender to jail for breaching such an order. The police have a Victim Support Unit, made up of civilians and volunteers, which offered support to victims, particularly female victims, of violent crimes.

There were public and private counseling services for victims of domestic violence, rape, and child abuse. The Business and Professional Women's Club operated a crisis center staffed by trained counselors and provided legal and medical referral services. The Government funded a shelter for battered women, operated by nongovernmental organizations, which accommodated 20 women and children. The shelter of-

fered psychological and physiological counseling by trained counselors to victims of domestic violence.

Prostitution is illegal, but it remained a problem, fueled by poverty and tourism. The media occasionally reported about prostitution, usually in the context of concern over HIV/AIDS. There is no statute specifically prohibiting sexual tourism, and no statistics on it; however, anecdotal evidence suggested it occurred.

Sexual harassment in the workplace was a problem, but no statistics were available. Media reports often indicated that women were afraid to report sexual harassment because they feared abuse in the workplace. The Barbados Workers Union continued to seek guidelines on sexual harassment in contracts and agreements it concluded with employers.

The Office of Gender Affairs in the Ministry of Social Transformation worked to ensure the rights of women. Women actively participated in all aspects of national life and were well represented at all levels of the public and private sectors. A Poverty Eradication Fund focused on encouraging entrepreneurial activities to increase employment for women and youth. Women owned approximately 30 percent of all businesses in the Small Business Association and carried in excess of 70 percent of the recent mortgages in the country. The Government reported that the number of female applicants for the police force, as well as for other jobs traditionally held by men, continued to increase. Women have equal property rights, including after a divorce.

Children.—The Government was committed to children's human rights and welfare, although violence and abuse against children remained serious problems. The Government provided for compulsory, free, and universal education until the age of 16. The Government estimated that 98 percent of children between the ages of 5 and 16 attended school. The highest educational level achieved by most children was secondary school.

The national health insurance program provided children with free medical and dental services for most medical conditions.

The Child Care Board has a mandate for the care and protection of children, which involved investigating day care centers and cases of child abuse or child labor, and providing of counseling services, residential placement, and foster care. The Welfare Department offered counseling on a broad range of family-related issues, and the Child Care Board conducted counseling for child abuse victims. Through October, 953 cases of child abuse were reported, including 243 cases of physical abuse, 224 cases of sexual abuse, 396 cases of neglect, 85 cases of emotional abuse, and 5 cases of abandonment.

Trafficking in Persons.—No laws specifically address trafficking in persons, although laws against slavery and forced labor could be applied, and there were no reports that persons were trafficked to, from, or within the country.

Persons With Disabilities.—Other than constitutional provisions of equality for all, there are no laws that specifically prohibit discrimination against persons with disabilities in employment, education, or the provision of other state services. In practice, persons with disabilities faced discrimination. Informal surveys suggested that there were 10,000 to 12,000 persons with disabilities in the country. The Ministry of Social Transformation operated a Disabilities Unit to address the concerns of persons with disabilities. However, in October, a group of parents accused the Government of not providing higher education for deaf children. Officials from the Ministry of Education stated that there was no law preventing deaf students from gaining higher education, but the students were not up to standard. There were also complaints of added fees assessed to parents and transport difficulties for children with disabilities at government schools. The Labor Department, a unit within the Ministry that finds jobs for persons with disabilities, has long advocated the introduction of legislation prohibiting discrimination.

While there is no legislation mandating provision of accessibility to public thoroughfares or public or private buildings, the Town and Country Planning Department set provisions for all public buildings to include accessibility to persons with disabilities. As a result, the majority of new buildings had ramps, reserved parking, and special sanitary facilities for such persons.

Other Societal Abuses and Discrimination.—There are no laws that prohibit discrimination against a person on the basis of sexual orientation in employment, housing, education, or health care. Societal discrimination was common, although reported incidents of discrimination against homosexuals dropped significantly during the year.

The Government sustained a well-financed fight against the high incidence of HIV/AIDS. In addition to actions designed to limit the spread of the disease, the

Government initiated programs designed to assist persons living with HIV/AIDS and to discourage discrimination against infected persons.

In October, the Labor Department, in association with the International Labor Organization (ILO), established a partnership to reduce the stigma of AIDS in the workplace.

Section 6. Worker Rights

a. The Right of Association.—Workers freely exercised their right to form and belong to trade unions. Approximately 19 percent (28,800) of the 148,000-person workforce was unionized; unionized workers were concentrated in key sectors, such as transportation, government, and agriculture.

Although employers were under no legal obligation to recognize unions under the law, most did so when a significant percentage of their employees expressed a desire to be represented by a registered union. While there is no specific law that prohibits discrimination against union activity, the courts provide a method of redress for employees who allege wrongful dismissal. The courts commonly awarded monetary compensation but rarely ordered reemployment.

b. The Right to Organize and Bargain Collectively.—Workers exercised the legal right to organize and bargain collectively. Since 1993, a series of negotiated protocols have contained provisions for increases in basic wages and increases based on productivity. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice. All private and public sector employees are permitted to strike, but essential workers may strike only under certain circumstances and after following prescribed procedures. The ILO criticized the Better Security Act of 1920, which provides that persons who willfully and maliciously break a contract knowing that it would cause injury to persons are liable for a fine or 3 months' imprisonment. The ILO asked that the law be amended on the grounds that it could be invoked in the case of a strike; the Government did not take any action to do so.

At year's end, the Government was still reappraising civil service salary scales.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law provides for a minimum working age of 16, and this provision generally was observed in practice. Compulsory primary and secondary education policies reinforced minimum age requirements (*see* Section 5). The Labor Department had a small cadre of labor inspectors who conducted spot investigations of enterprises and checked records to verify compliance with the law. These inspectors may take legal action against an employer who is found to have underage workers.

e. Acceptable Conditions of Work.—The law provides for and the authorities establish minimum wages for specified categories of workers. Only two categories of workers have a formally regulated minimum wage—household domestics and shop assistants. The minimum wage for these employees is $2.50 (BP 1.55), which provided a decent standard of living for a worker and family; most employees earned more than the minimum wage. Some persons also received remittances from relatives abroad or operated cottage industries to supplement their income.

The standard legal workweek is 40 hours in 5 days, and the law requires overtime payment for hours worked in excess. The Government respects ILO conventions, standards, and other sectoral conventions regarding maximum hours of work. However, there is no general legislation that covers all occupations. Work in excess of 8 hours a day or 40 hours a week or work on a holiday or day off requires payments of a premium. Employers must provide a minimum of 3 weeks' annual leave. Unemployment benefits and national insurance (social security) covered all workers. A comprehensive, government-sponsored health program offered subsidized treatment and medication.

The law provides for occupational safety and health standards. The Labor Department enforced health and safety standards and followed up to ensure that management corrected problems cited. The law also requires that in certain sectors firms employing more than 50 workers create a safety committee. This committee could challenge the decisions of management concerning the occupational safety and health environment. Trade union monitors identified safety problems for government factory inspectors to ensure the enforcement of safety and health regulations and effective correction by management. The Barbados Workers Union accused government-operated corporations in particular of doing a "poor job" in health and safety. The Labor Department's Inspections Unit conducted several routine annual inspections of government-operated corporations and manufacturing plants. During

the year, two workers died after exposure to toxic fumes while cleaning the waste well at a local brewery. Workers were not provided with masks or other needed safety equipment for this dangerous task. Workers had a limited right to remove themselves from dangerous or hazardous job situations without jeopardizing their continued employment.

BELIZE

Belize is a constitutional parliamentary democracy governed by the Prime Minister, a cabinet of ministers, and a legislative assembly. The Governor General represented Queen Elizabeth II in the largely ceremonial role of Head of State. Prime Minister Said Musa's People's United Party (PUP) held 22 of the 29 seats in the House of Representatives following generally free and fair multiparty elections in March of 2003. The judiciary is independent.

The Police Department has primary responsibility for law enforcement and maintaining order. The Belize Defense Force (BDF) is responsible for external security but, when deemed appropriate by civilian authorities, may be tasked to assist the police department. Armed BDF soldiers routinely accompanied police patrols in Belize City in an attempt to reduce the violent crime rate. The police report to the Minister of Home Affairs, while the BDF report to the Minister of Defence. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market-based economy was primarily agricultural, although tourism has become the principal source of foreign exchange earnings; the country's population was approximately 273,000. There was a very small industrial sector, comprising limited agribusiness, clothing, and boat manufacturing. The agricultural sector was heavily dependent upon preferential access to export markets for sugar and bananas. Gross domestic product grew at an estimated rate of 4 percent, while inflation was estimated at 3 percent; 45 percent of the population lived in poverty.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police allegedly committed unlawful killings. Brutality and excessive use of force by members of the security forces, allegations of arbitrary arrest and detention, and lengthy pretrial detention were problems. Domestic violence and discrimination against women, sexual abuse of children, and employer mistreatment of undocumented foreign workers also were problems. There were reports of trafficking in persons and child labor was prevalent.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, the security forces were accused of some unlawful or unwarranted killings.

On February 12, police constable Burton Caliz shot and killed Leroy Pilgrim at the waterside in San Pedro. After stopping and searching Pilgrim, two officers took him to the water to search his boat. Caliz claimed that a struggle over an illegal firearm led to the fatal shooting, but subsequent police investigations found no evidence to support that scenario. On March 29, Caliz was arrested and charged with manslaughter. At year's end, his trial was still pending.

There were no developments in the 2003 manslaughter cases against police constable Sheldon Arzu and BDF private Giovanni Gutierrez. The trial of police constable Sherwood Wade on charges of manslaughter resulted in a hung jury, and a re-trial was pending at year's end. The prosecution dropped charges against police constable Kevin Alvarez in connection with the 2002 shooting death of Albert Pennil.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture or other inhuman punishment; however, there were numerous reports that police and prison staff used excessive force.

Some of the most common complaints received by the office of the Ombudsman involved alleged misconduct and abuse by police and Department of Corrections personnel. The Ombudsman reported that the number of such reports decreased; however, a number of cases of alleged abuse featured in the press were never reported to the Ombudsman's office. In many cases, the Government ignored reports of abuses; withheld action until the case had faded from the public's attention, at

which point no action was taken; or transferred guilty officers to other districts. The Government did take action in a small number of cases. The Ombudsman stated that police use of force was appropriate in the majority of cases he investigated, usually due to the complainant having resisted arrest, even if the level of force used was sometimes excessive.

On March 30, San Ignacio police constable Julio Shal shot and injured Pedro Guzman. Guzman had been detained in connection with a burglary, and was released after 48 hours. The night of Guzman's release an inebriated Shal, in plain clothes, forced Guzman into a car at gunpoint. He proceeded to threaten Guzman with his gun, eventually shooting him in the hand. On March 31, Shal was arrested and charged with attempted murder, use of deadly means of harm, and possession of a firearm while under the influence of alcohol. Shal's trial was ongoing at year's end.

On September 14, the police suspended police constables Clayton Marin and Cyril Wade and charged them with dangerous harm in connection with the beating of Emile Pinelo. While arresting him and later at the police station, Marin and Wade allegedly choked, punched, repeatedly kicked, and beat Pinelo. Police initially denied Pinelo medical care but eventually took him to the hospital where he was treated for multiple injuries, including a broken nose and a head injury. Pinelo suffered massive internal injuries and required emergency surgery to remove 25 inches of his small intestine.

Police superintendent Ewart Itza was acquitted on all charges stemming from a 2003 brutality investigation. Prosecutors appealed his case to the Supreme Court and that appeal was pending at year's end. The Director of Public Prosecutions had no record of charges against police constable Adrian Lopez, who was reportedly charged in December with attempted rape and indecent assault.

Prison conditions were poor, but they improved during the year. The country's only prison, in Hattieville, designed for 500 inmates, held approximately 1,120 male and 40 female prisoners. The prison budget provided only $6 (Bz$12) per prisoner per day to cover all operating costs. In the remand section, 220 detainees shared 40 15- by 20-foot cells that were designed to hold 150. The prison had a medical clinic with four beds, a full-time doctor, and two nurses. Prisoners often had to pay for their own treatment and medicine. Under the oversight of the Ministry of Home Affairs, the nonprofit Kolbe Foundation managed Hattieville Prison and concentrated on improving professionalism of prison guards, reducing waste and corruption, and using prison labor on prison infrastructure projects.

There were reports that prison wardens and guards sometimes brutalized troublesome prisoners. A common punishment was placing inmates in a small, unlit, and unventilated punishment cell. Inmates claimed that prison officials sometimes withheld food and water as further punishment.

In addition, prisoners enforced their own code of conduct and attacked prisoners convicted of heinous crimes such as child molestation. Prisoners convicted or accused of such crimes often were housed in the immigration section for their protection.

The prison included a separate facility for women, located 200 yards outside the main compound. Conditions in the women's facility were significantly better than those in the men's compound. The 40 women held there occupied 17 cells. The facility was clean, and inmates had access to limited educational and vocational classes.

Juvenile prisoners lived in a separate, newly built facility outside the main perimeter fence. The youthful offenders program included 16 hours per day of structured schooling, exercise, and vocational training.

Pretrial detainees and immigration violators were held in overcrowded cells separate from convicted criminals. Inmates with mental illnesses were housed in separate cells. First-time offenders were housed in the same building as those who committed capital crimes. Incidents of gang- and drug-related violence in the prison continued. Prison breaks, confiscation of weapons, and reports of beatings also occurred during the year.

The Government permitted prison visits by independent human rights observers, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest or detention, and the Government generally observed these prohibitions; however, there were occasional accusations of arbitrary arrest and detention.

The 950-member national police force had a hierarchical structure and generally was effective in responding to complaints; however, lack of resources and corruption were problems. Police, who were poorly paid, sometimes succumbed to bribery.

The Police Department's internal affairs and discipline (IAD) section, the Director of Public Prosecutions (DPP), and the Ombudsman's office investigated allegations

of police abuses. According to the IAD, there were a number of sanctions against police officers for infractions during the year. Through October, the IAD handled 124 complaints against the police. Eleven police officers were disciplined, three were dismissed, and five were arrested and charged.

Police were required to obtain search or arrest warrants issued by a magistrate, except in cases of hot pursuit, when there was probable cause, or if the presence of a firearm was suspected. Customs officers could search a premise with a writ of assistance issued by the Comptroller of Customs. The law requires police to inform a detainee of the cause of detention and to bring the person before a court to be charged formally within 48 hours of arrest. In practice, authorities normally informed detainees immediately of the charges against them.

Police were required to follow "The Judges' Rules," a code of conduct governing police interaction with arrested persons. In rare instances, entire cases were dismissed when the Judges' Rules were violated. More commonly, a confession obtained through violation of these rules was deemed invalid. Detainees usually were granted timely access to family members and lawyers, although there were occasional complaints that inmates were denied access or a phone call after arrest. Bail was available for all cases except murder and was granted in all but the most serious cases. In cases involving narcotics, police cannot grant bail, but a magistrate's court may do so after a full hearing. Detainees sometimes could not afford bail, and backlogs in the docket often caused considerable delays and postponement of hearings, resulting in an overcrowded prison, and at times prolonged pretrial detention. At year's end, 18 percent of the prison population was in pretrial detention (*see* Sections 1.c. and 1.e.).

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

Judges hold lifetime appointments (until the mandatory retirement age of 65). There were four Supreme Court justices and 17 magistrates; only 3 magistrates had a legal background. Most judges were members of the civil service and routinely were transferred between court and administrative postings. The Government appointed the DPP for life. The DPP reported no attempted political interference in his job.

The judiciary consists of the alcalde courts (with jurisdiction over small civil claims and minor criminal infractions), the magistrate's courts, the Supreme Court, the Court of Appeals, and a family court that handles cases of child abuse, domestic violence, and child support. The family court is at the same level as the magistrate's courts; however, trials in cases that came before the family court generally were private. The convicted party in family court may appeal to the Supreme Court. Those convicted by either a magistrate's court or the Supreme Court may appeal to the Court of Appeals. In exceptional cases, including those resulting in a capital sentence, the convicted party may make a final appeal to the Privy Council in the United Kingdom. Trial by jury is mandatory in capital cases.

Persons accused of civil or criminal offenses have constitutional rights to presumption of innocence, protection against self-incrimination, defense by counsel, a public trial, and appeal. Defendants have the right to be present at their trial unless the opposing party feared for his or her safety. In such a case, the court granted interim provisions under which both parties were addressed individually during a 5-day period.

Legal counsel for indigent defendants was provided by the State only for capital crimes. Most defendants could not afford an attorney and were convicted at a much higher rate than those with legal representation. The Legal Aid Center's staff attorney handled up to 150 cases a year, leaving the majority of defendants unrepresented. A severe lack of trained personnel constrained the judicial system, and police officers often acted as prosecutors in the magistrate's courts. Although the DPP replaced 11 of the inadequately trained and inexperienced police prosecutors with full-time prosecutors, the new hires often had little legal and prosecutorial background.

There were lengthy trial backlogs in the judicial system. Routine cases without a defense attorney were disposed of within 1 month, but cases involving a serious crime or where there was a defense attorney took more than 1 year. Citing a lack of evidence and uncooperative witnesses, the DPP dismissed a large number of cases. Despite an increase in serious crimes, poor case management, lack of attorney discipline, and several cases that had been ongoing for years, the backlog of cases was shrinking, largely because many cases were simply dismissed. However, other cases were continued repeatedly.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, government authorities generally respected these prohibitions, and violators were subject to legal action. However, some disputes regarding the Government's exercise of eminent domain rights remained unresolved despite pending for years in the courts.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. The Constitution also permits the authorities to make "reasonable provisions" in the interests of defense, public safety, public order, public morality, or public health. These provisions include forbidding any citizen to question the validity of the financial disclosure statements submitted by public officials. Anyone who questioned these statements orally or in writing outside a rigidly prescribed procedure was subject to a fine of up to $2,500 (Bz$5,000), or imprisonment of up to 3 years, or both.

A wide range of viewpoints was presented publicly, usually without government interference, in 10 privately owned weekly newspapers, 2 of which were owned by major political parties. There were no daily newspapers. All newspapers are subject to the constraints of libel laws, but these laws have not been invoked in several years. Newspapers were routinely critical of the Government without fear of reprisal.

There were 10 privately owned commercial radio stations and 1 British military station that broadcast news directly from London and other Caribbean nations. Popular radio call-in programs were lively and featured open criticism of, and comments on, government and political matters.

There were two privately owned television stations that produced local news and feature programming. There were also several cable television providers throughout the country that rebroadcast foreign stations. The Belize Broadcasting Authority regulated broadcasting and retained the right to preview certain broadcasts, such as those with political content, and to delete any defamatory or personally libelous material from political broadcasts, a prerogative that has not been exercised in several years.

The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. The organizers of public meetings must obtain a permit 36 hours in advance of the meetings; such permits were not denied for political reasons and were granted routinely in practice. Political parties and other groups with political objectives freely held rallies and mass meetings.

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

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits exile, and it was not used.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has not established a system for providing protection to refugees. Since 1999, the Government has not accepted asylum applications, and there was no legislation that formalized the asylum process. Until the Government closed its Refugee Department in 1999, the U.N. High Commissioner for Refugees (UNHCR) relied upon a local nongovernmental organization (NGO) to monitor the status of asylum seekers and to represent its interests. The Government had no procedure in place to accept or resettle refugees and has not recognized any individual as a refugee since 1997.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. All elections were held by secret ballot, and suffrage was universal for citizens age 18 and older. The country is governed by a national assembly with executive direction from a cabinet of ministers headed by Prime Minister Said Musa. The law requires national elections

every 5 years. In March 2003, the PUP won re-election, maintaining 22 of 29 seats in the House of Representatives in generally free and fair elections. The opposition United Democratic Party (UDP) gained a seat in an October 2003 by-election, reducing the PUP majority to 21 seats.

Corruption worsened during the year. In July, the media reported on inappropriate investments by the Social Security Board whereby the Government reportedly authorized the use of millions of dollars in public funds to shore up the business interests of well-connected citizens. Following the revelation, 7 of the 13 cabinet ministers threatened to resign unless the Prime Minister dismissed the Minister of Finance and allowed more cabinet oversight of public finances. The parties reached a compromise solution that included the Prime Minister taking over the Finance portfolio and two of the seven dissenters gaining roles as Ministers of State in the Finance Ministry. On August 28, nearly 10,000 persons marched in protest of the scandal, calling for an independent investigation of the matter. Following weeks of turmoil, the Prime Minister ordered a Senate investigation, which was ongoing at year's end.

Public surveys and Transparency International indicated that community perception of corruption rose. In addition to the Social Security scandal, the Government faced questions over the sale of public lands and assets for significantly less than market value. On April 28, the Printers Association sued the Government for full disclosure on the privatization of the Printing Department, claiming that the Government divested that national asset at far below market value. On October 15, the Court of Appeals upheld a Supreme Court ruling that the Government must turn over the 5-year contract and ordered them to produce an inventory of the assets that were included with the privatization.

The Freedom of Information Act provides for public access to documents of a Ministry or prescribed authority upon written request, although it protects a number of categories, such as documents from the courts or those affecting national security, defense, or foreign relations. The Government must supply, in writing, the reason for any denial of access, the name of the person making the decision, and information on the right to appeal to the Ombudsman. The Ombudsman reported that he had received no such appeals between April 2003 and March.

There were 2 women in the 29-seat House of Representatives, 1 of whom was appointed to serve as Speaker of the House. There were 3 women in the 12-member appointed Senate, and another woman served as president of the Senate. There was one woman in the Cabinet, and five women were chief executive officers of ministries.

There are no laws impeding participation by indigenous persons or minority groups in politics. There were Mestizo, Creole, Maya, and Garifuna representatives in the National Assembly. Voter registration and participation were not tracked by ethnicity; however, there were no complaints or reports of electoral discrimination on the basis of ethnicity.

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

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

The Human Rights Commission of Belize (HRCB), an NGO affiliated with regional human rights organizations and partly funded by the UNHCR, operated without government restriction on a wide range of issues, including migrant and agricultural workers' rights and cases of alleged police abuse. The HRCB published human rights complaints and urged police and other governmental bodies to act upon them.

In March, the Belize Center for Human Rights Studies opened in Belmopan. The Center was a non-profit educational institution colocated with the University of Belize, with the primary mission of furthering human rights education at the tertiary level, conduct research, and promote discussion of human rights issues.

There is an independent Ombudsman whose role is to act as a check against governmental abuses. The Ombudsman stated in his fourth annual report that he received 244 formal complaints between April 2003 and March. While most complaints were against the Government, a number were against private entities. There were 114 complaints against the Police Department, 35 regarding the Lands Department, 21 against the Department of Corrections, and 19 against the Family Court. The Ombudsman investigated the majority of these cases and published his findings on many of them in the annual reports.

Drug trafficking charges against human rights activist Antionette Moore were dropped in May. The charges against her husband, radio personality Michael Flores,

were pending at year's end. Detained and charged in 2003, Flores had been warned by police prior to his arrest to stop his commentary against police brutality.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination based on race, place of origin, political opinion, color, creed, or sex. The country is multiracial and multiethnic, and discrimination was rare, although ethnic tension, particularly resentment of recently arrived Central American and Asian immigrants, continued to be a problem. There was some societal discrimination against persons with HIV/AIDS, and the Government worked to combat it through the public education efforts of the National AIDS Commission.

Women.—Domestic violence against women was a worsening problem. The Family Violence Unit of the police recorded approximately 1,200 instances of domestic violence against women during the year, of which 55 percent came from Belize City. One nine-bed shelter for battered women offered short-term housing. The Belize Organization for Women and Development, an NGO, advised women on their rights and provided counseling.

Laws prohibit rape, including spousal rape. Despite a 25 percent increase in reported rapes during the year, the number of convictions declined. The police and courts treated rape more seriously than in previous years, but it was still not a priority. The Magistrate's Court reported three convictions for rape and one for attempted rape, with sentences ranging from 10 to 12 years' imprisonment. Arrests and convictions for rape received widespread press coverage. The police and courts enforced statutory rape laws, with 5 convictions.

Adult prostitution is legal; however, the law prohibits loitering for prostitution, operating a brothel, and soliciting for prostitution. The laws, which carry penalties of fines up to $500 (Bz$1,000) or 1 year's imprisonment, were enforced weakly. Several prominent brothels operated openly.

The law prohibits sexual harassment, and it was punishable by a fine of up to $250 (Bz$500) or imprisonment of up to 3 months. No sexual harassment cases were brought during the year.

Despite constitutional provisions for equality, women faced social and economic prejudice. It was harder for women to find employment, and most employed women were concentrated in female-dominated occupations with low status and wages. There was an unofficial policy of nontolerance toward unwed pregnant teachers, who were often dismissed. In April, Maria Roches won a $150,000 (Bz$300,000) lawsuit against a Catholic school that released her from a teaching position after she told management that she was pregnant. In recent years, the proportion of women in higher education increased, and 63 percent of students at the University of Belize were women.

There were no legal impediments to women owning or managing land or other real property. Women were active in all spheres of national life, but relatively few held top managerial positions. The law mandates equal pay for equal work; however, women tended to earn less than men; the median monthly income for a working woman was $353 (Bz$706) compared with $374 (Bz$748) for a man.

The Women's Department in the Ministry of Human Development, Women and Children, and Civil Society is charged with developing programs to improve the status of women. A number of officially registered women's groups worked closely with various government ministries to promote social awareness programs.

Children.—The Government was committed to children's rights and welfare. Education is compulsory for children between the ages of 5 and 15. After children finish their primary education, they may enter a secondary school, the government-run apprenticeship program, or a vocational institution. However, these programs had room for only one-half of the children finishing primary school. Education was nominally free, but school, book, and uniform fees placed education out of reach for many poor children. Approximately 71 percent of school-age children were enrolled in school; the enrollment rate was 96 percent at the elementary level and less than 60 percent at the secondary level. Statistics from 2001 indicated that 81 percent of students reached fifth grade. There were also many truants and dropouts. A 2003 study concluded that girls were victims of discrimination in the schools. Schools often expelled pregnant students, requiring the students to wait 1 year before applying for readmission.

Several government-run clinics provided health care to children. Boys and girls had equal access to such care.

Child abuse was not considered to be widespread or a societal problem; the Family Violence Unit recorded approximately 100 cases of domestic violence against children a year. Sexual abuse of minors, including incest, was a problem. The Families

and Children Act allows authorities to remove a child legally from an abusive home environment and requires parents to maintain and support children until they reach the age of 18.

A widespread practice was that of parents selling their female children to an older man, often a friend of the family (*see* Section 5, Trafficking).

The Family Services Division in the Ministry of Human Development, Women and Children, and Civil Society was devoted primarily to children's issues. The division coordinated programs for children who were victims of domestic violence, advocated remedies in specific cases before the family court, conducted public education campaigns, investigated cases of trafficking in children (*see* Section 5, Trafficking), and worked with NGOs and UNICEF to promote children's welfare.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked within and to the country, mainly from neighboring countries.

The law prohibits all forms of trafficking in persons; offenses are punishable by fines of up to $5,000 (Bz $10,000) and imprisonment of up to 8 years.

Two persons were convicted of trafficking in persons. On April 14, the proprietor of an Orange Walk bar pled guilty to one count of trafficking. She was fined $1,000 (Bz $2,000) or, in default, 1 year in prison. On May 14, a foreign retiree was sentenced to 2 years in prison after he pled guilty to trafficking in persons. There were no convictions on the trafficking charges stemming from the August 2003 raid of 42 brothels. There were no new developments in the trafficking cases against two male foreigners who were arrested in October 2003. In January, prosecutors dropped the carnal knowledge charges against John Majarrez, which dated from his arrest in 2002.

There were no authoritative estimates on the extent of trafficking. Women and girls were trafficked to the country from neighboring countries primarily for prostitution and nude dancing. Victims generally lived in squalid conditions in the bars where they worked. Some bar owners held their passports and work permits, but most victims had access to their own money. Agents of the bars and brothels were hired to lure women and girls to the country, and they or taxi drivers along the border delivered the unsuspecting victims to brothels.

There were reports of persons trafficked for labor purposes. There were instances of Chinese migrants being forced to work in local (Chinese-owned) sweatshops. Members of the East Indian community also imported employees from India in effect as bonded labor, holding their passports and paying less than minimum wage.

The National Committee for Families and Children reported instances of minors engaged in prostitution with older men, in some cases of their own volition, in others arranged by their family. These girls were typically of high-school age, but some as young as 13 were reported, and came from economically disadvantaged families. They provided sexual favors to an older man in return for clothing, jewelry, or school fees and books. In a limited number of cases, government attempts to prosecute the men for unlawful carnal knowledge were stymied by the unwillingness of the girls' families to press charges.

The law also provides for limited victims' assistance, although, in practice, government resources were too limited to provide meaningful aid to victims. Under the law, non-citizen victims willing to assist in prosecuting traffickers are eligible for residency status.

In 2003, the Government formed a National Task Force to combat human trafficking, comprising multiple ministries, NGOs, diplomatic representatives, police, immigration, and prosecution personnel. The task force established a protocol for investigating and handling trafficking cases under the new law.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law neither provides specifically for accessibility for persons with disabilities nor prohibits job discrimination against them. In 2001, the Government transferred responsibility for disability service provision to private companies and NGOs, such as the Belize Association of and for Persons with Disabilities and the Belize Center for the Visually Impaired. Children with disabilities had access to government special education facilities, although the requirements to enter such programs were strict.

Indigenous Persons.—Among the country's indigenous people, the Mopan and Ke'kchi were grouped under the general term Maya, although their leaders stated that they should be identified as the Masenal, meaning "common people." The Maya sought official recognition of their communal claims to land, but the Government was reluctant to single out one ethnic group for special consideration. The Government designated 77,000 acres for 9 separate Mayan reserves; however, Mayan lead-

ers claimed an ancestral right to a total of 500,000 acres. The Maya formed cultural councils and other groups to advance their interests, sometimes with the collaboration of NGOs concerned with environmental and indigenous issues.

In August, the mayor of Belmopan sent a letter to the Prime Minister requesting help dismantling illegal Mayan communities on the outskirts of the city and relocating the inhabitants. The mayor's plan led to a September protest by indigenous peoples and reignited the debate over land for the Maya.

At year's end, the Government had not responded to the 2003 Inter-American Commission on Human Rights (IACHR) report recommending that it recognize the Mayan right to traditionally occupied communal property and demarcate such property before taking any further actions on disputed land. In November, the IACHR rebuked the Government for not acting on the recommendations.

Section 6. Worker Rights

a. The Right of Association.—By law and in practice, workers generally were free to establish and join trade unions. Eight independent unions, whose members constituted approximately 11 percent of the labor force, represented a cross-section of workers, including most civil service employees. The Ministry of Labor recognizes unions after they file with the Registrar's Office. The National Trade Union Congress of Belize accepted only unions that held free, annual elections of officers. Both law and precedent effectively protect unions against dissolution or suspension by administrative authority.

The Constitution prohibits anti-union discrimination. In a report released July 14, however, the International Confederation of Free Trade Unions (ICFTU) encouraged the Government to take measures to protect workers from anti-union discrimination, particularly in the banana sector and the export processing zones. The report stated that the fine of $125 (Bz$250) did not dissuade acts of anti-union discrimination. According to the Trade Unions and Employers Organizations Act, any worker who is a victim of anti-union discrimination can seek redress in the Supreme Court with allowable judgments of up to $2,500 (Bz$5,000). Some employers blocked union organization by firing key union sympathizers, usually on grounds purportedly unrelated to union activities. Effective redress was extremely difficult to obtain in such situations. A worker could file a complaint with the Labor Department, but, in practice, it was difficult to prove that a termination was due to union activity.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining, and unions practiced it freely. Employers and unions set wages in free negotiations, or, more commonly, employers simply established them. The Labor Commissioner or his representative acted as a mediator in deadlocked collective bargaining negotiations between labor and management, offering nonbinding counsel to both sides. Should either union or management choose not to accept the Commissioner's decision, both are entitled to a legal hearing.

Unions may organize freely, but the law does not require employers to recognize a union as a bargaining agent if there is no union that covers more than 50 percent of the workers.

The law permits unions to strike and does not require them to give notice before going on strike. However, this right is limited for public sector workers in areas designated as "essential services," which are broadly defined and include postal, sanitary, health and other services as well as services in which petroleum products are sold. The Essential Services Act also empowers the Government to refer a dispute to compulsory arbitration to prohibit or terminate a strike.

There are no special laws or exemptions from the regular labor laws in the country's 4 general and 26 special export processing zones (EPZs). There were no unions in the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The Government prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Labor Act prohibits all employment of children under age 12 and prohibits employment of children between the ages of 12 and 14 before the end of school hours on official school days. However, there was a tradition of children's employment on family farms and in family-run businesses, which the law allows. The minimum age for employment was 17 years for work near hazardous machinery. Inspectors from the Departments of Labor and Education are responsible for enforcing these regulations.

In its July report, the ICFTU stated that child labor was prevalent, particularly in family farms and businesses, and that child labor laws were not well-enforced. In 2003, the Central Statistical Office (CSO) estimated that 6 percent of children between the ages of 5 and 17 were working, half of them in hazardous work. The

CSO study did not include the sizeable undocumented population, many of whom were not in school. In rural regions, children worked on family plots and businesses after school, on weekends, and during vacations and were involved in the citrus, banana, and sugar industries as field workers. In urban areas, children shined shoes, sold food, crafts, and other small items, and worked in markets. Teenage girls, some of whom were trafficked from neighboring countries, worked as domestic servants, and some were rumored to work as bar maids and prostitutes (*see* Section 5, Trafficking).

e. Acceptable Conditions of Work.—The minimum wage was $1.12 (Bz$2.25), except for domestic workers in private households, shop assistants in stores where liquor was not consumed, and in export industries, where it was $1.00 (Bz$2.00) per hour. The minimum wage law did not cover workers paid on a piecework basis. The Ministry of Labor was charged with enforcing the minimum wage, which generally was respected in practice. The national minimum wage did not provide a decent standard of living for a worker and family.

The law sets the workweek at no more than 6 days or 45 hours. It requires payment for overtime work, 13 public holidays, an annual vacation of 2 weeks, and sick leave for up to 16 days. An employee is eligible for severance pay after being employed continuously for at least 5 years.

The exploitation of undocumented Central American workers, particularly young service workers and agricultural workers, continued to be a problem.

A patchwork of health and safety regulations covered numerous industries, and the Ministry of Labor enforced these regulations to varying degrees. The Government committed its limited inspection and investigative resources principally to urban and more accessible rural areas where labor, health, and safety complaints were registered. Workers had the legal right to remove themselves from a dangerous workplace situation without jeopardy to continued employment, and they were able to exercise this right in practice.

BOLIVIA

Bolivia is a constitutional, multiparty democracy with an elected president and bicameral legislature; the country has separate executive, legislative, and judicial branches of government, with an attorney general independent of all three. On October 17, 2003, protesters forced President Gonzalo Sanchez de Lozada, who been elected in free and fair elections in August 2002, to resign from office. After a vote in Congress, Vice President Carlos Mesa Gisbert assumed office and restored order. Mesa appointed a non-political cabinet and promised to revise the Constitution through a constituent assembly. The Constitution provides for an independent judiciary; however, the judiciary suffered from corruption, inefficiency, and political manipulation.

The National Police has responsibility for internal security. The military is responsible for external security but also has domestic responsibilities. The Judicial Technical Police (PTJ) conduct investigations for common crimes (cases that do not involve narcotics); the police provide security for coca eradication work crews in the Chapare region; the Special Counternarcotics Force (FELCN), including the Mobile Rural Patrol Unit (UMOPAR), is dedicated to antinarcotics enforcement. Civilian authorities maintained effective control over the security forces. Some members of the security forces committed human rights abuses.

The country has a market-oriented economy that continued to be affected by social unrest and corruption. Approximately 65 percent of the population of 8.5 million lived below the poverty line. The country is rich in minerals and hydrocarbons; however, most workers were engaged in traditional agriculture or self-employed in the informal sector, and many citizens were barely linked to the cash economy. During the year, the economy grew by approximately 3.5 percent. Wages and benefits did not keep pace with inflation. The Government remained heavily dependent on foreign assistance to finance development projects.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The human rights situation improved compared to the previous year, and the country held its first national referendum in many decades. Security forces killed at least three persons and injured dozens of protesters during episodes of violent social unrest. Three members of the security forces also were killed and dozens of others injured during social demonstrations or while enforcing coca eradication policies. There were credible reports of abuses by security forces, including use of excessive force, extortion, and improper arrests. There were

reports that military conscripts were mistreated. Prison conditions were harsh, and violence in prisons was a problem. There were credible reports of arbitrary arrest and detention. Prolonged detention remained a problem. The Government continued to implement a new Public Ministry Law to adapt the prosecutorial function of the judicial system to the requirements of the Code of Criminal Procedures (CCP). Other problems included pervasive domestic violence and discrimination against women, abuse of children, trafficking in persons, discrimination against and abuse of indigenous people, and discrimination against Afro-Bolivians and persons because of their sexual orientation. Child labor and brutal working conditions in the mining industry were serious problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings committed by government agents; however, there were problems in some areas. Security forces killed at least three protesters and injured dozens of others during violent demonstrations (*see* Section 2.b.).

On September 28, in the Bustillos area of the Chapare, inside the Isiboro Secure nature reserve, approximately 300–350 coca growers (cocaleros), including women and children, attacked members of the Joint Eradication Task Force (FTC) who were preparing to eradicate illegal coca plants inside the park. During the previous days, the cocaleros had laid siege to the FTC camp and employed pressure tactics such as digging trenches and felling trees to dissuade the FTC from completing its assignment. The cocaleros attacked the security forces with dynamite, some firearms, and potentially lethal slings. The police in the FTC fired tear gas and responded according to the sequence prescribed in its rules of engagement. Nevertheless, the confrontation escalated, and a gunshot killed cocalero Juan Colque. Two boys claimed they saw a soldier shoot Colque, but this was not confirmed. On October 14, Genaro Canaviri also died of a bullet wound that he sustained in a morning confrontation with security forces, in which a number of civilians and members of the security forces also were injured. The Human Rights Ombudsman Representative in the Chapare, the Public Ministry, and the military launched investigations into both killings. The Government agreed to compensate the families of the two dead coca growers and negotiated an agreement with cocaleros to allow 3,200 hectares of coca to be exempt from eradication until a legal study of market consumption for the coca leaf has been completed.

On December 20, at the El Paila ranch, in Santa Cruz Department, Medrin Colque Mollo was killed by a gunshot, presumably fired by police, during a confrontation between more than 100 squatters and security forces who sought to remove the squatters from private land they had occupied for more than 2 years. Eleven other persons, including four policemen, were injured. Central Government and departmental authorities launched an investigation, which was pending at year's end.

Public Ministry investigations continued into the events of February 2003 that left 33 people dead and some 200 injured and into the October 2003 events that left 56–80 persons dead and more than 400 injured. On October 14, the Congress authorized the Supreme Court to try former President Sanchez de Lozada and 15 members of his Cabinet for their role in the October violence.

There has been no progress in the January 2003 shooting death of coca grower Willy Hinojosa in the Chapare. The Public Ministry investigation remained pending at year's end.

There were no significant developments and none expected in the 2002 killing in Sinahota, Chapare, of Marcos Ortiz Llanos, who allegedly was shot by soldiers from the now-disbanded Chapare Expedition Force (FEC) during a cocalero demonstration.

There were several deaths due to violence in the prisons during the year (*see* Section 1.c.).

While the investigation remained open, there were no significant developments and none were expected in the 2001 killing of Casimiro Huanca Coloque, a leader in the Chimore Coca Growers Federation, during a confrontation between the FEC and cocalero protesters. A military court and the Public Ministry had concluded earlier that there was insufficient evidence to charge the FEC soldier who had fired the shot.

The Government's delay in completing effective investigations and identifying and punishing those responsible for either civilian or security force deaths resulted in a perception of impunity. However, on December 17, Congress appointed a new Attorney General and filled longstanding vacancies on the Supreme Court and the Ju-

dicial Council. The Congressional Human Rights Committee, the Ombudsman's office, the Vice Ministry of Justice and its Directorate of Human Rights, and nongovernmental organizations (NGOs) continued to press the Government to expedite action in the cases.

On February 27, in Santa Cruz, prosecutor Monica von Borries was killed when a bomb planted in her car by unknown persons, exploded. Police suspected Marco Marino Diodato, a dangerous narcotics trafficker who had escaped earlier from prison. The Attorney General's office was investigating the case, and several arrests and indictments have been made.

There were fewer reports of killings of government security forces by nongovernmental actors compared with the previous year. On June 6, in the town of San Pablo, 200 soldiers escorted police in an operation to clear roadblocks with explicit orders to carry only non-lethal equipment. The security forces walked into a well-planned ambush by armed attackers and were unable to properly defend themselves. An officer, Saul Coronado, was killed, and 27 soldiers were injured. Two peasants, Hernan Masay and Eddy Argmon, also were killed, but preliminary ballistics and forensic analyses indicated that small caliber bullets of the type used by the ambushers had caused their wounds. Military and civilian authorities were still investigating the incident at year's end.

On March 30, disgruntled miner Eustaquio Picachuri, who had entered the National Congress with dynamite strapped to his body, blew himself up, killing policemen Marvel Flores and Rene Amurrio and injuring 11 bystanders.

Investigations continued into the numerous booby trap and sniping incidents in the Chapare in 2003 that killed or injured security personnel eradicating illegal coca plants.

There was no significant progress and none was in the 2002 case of the deaths of four men at Sindicato Los Yukis. The Attorney General's investigation continued at year's end.

There were several reported cases of alleged criminals beaten, lynched, or burned by civilians, sometimes resulting in death. For example, on June 15, the townspeople of Ayo Ayo lynched and burned mayor Benjamin Altamirano. Several arrests were made, and the Public Ministry was investigating the incident at year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and the Government generally respected these provisions; however, there were a number of allegations of beatings and abuse by members of the security forces.

For example, during the year, the Chimore Center for Justice and Human Rights (CCJHR), which was converted into an Integrated Justice Center, received 8 complaints from a total of 15 civilians that security forces either had abused them or stolen their property. Cases were not formally filed with the Public Ministry but instead were referred for action to the Police Office of Professional Responsibility.

Spanish citizen Francisco Javier Villanueva alleged that he was tortured by Santa Cruz police following his April arrest in connection with the February car bombing and murder of State Prosecutor Monica Von Borries (*see* Section 1.a.). Villanueva, who remained under arrest in Palmasola prison, claimed that he had been abducted by plainclothes policemen and subjected to beatings, electric shocks, suffocation, near drowning, and death threats at an undisclosed location. Amnesty International and other NGOs claimed that medical evidence supported his assertion and protested the case. However, eyewitnesses stated that Villanueva had aggressively resisted police when he was arrested with a warrant and that he was injured while being forcibly restrained. A Public Ministry investigation was pending at year's end.

No significant progress was made in the January 2003 injuring of two coca growers, during a protest at Cruce Vueltadero or in the January 2003 beating cases of Gabina Contreras and her husband Crecencio Espinosa near Santa Rosa, allegedly by army soldiers. The latter case remained under investigation at year's end.

Security forces clashed with demonstrators on several occasions during the year, resulting in the deaths of three to five demonstrators and dozens of injuries (*see* Section 2.b.). At least some of the injuries were attributed to tear gas canisters, rubber bullets, and live ammunition used by the security forces. Investigations into these incidents were pending at year's end.

The Public Ministry continued its investigation into allegations that security officials beat cocalero leaders whom they detained in Sacaba during the disturbances in 2002 and that they beat other civilians to try to learn the names of those responsible for security officers' deaths.

There also were credible allegations that military commissioned officers and NCOs beat and otherwise mistreated military conscripts.

Indigenous communities in areas with little or no central government presence imposed punishment that reportedly included the death penalty for members who violated traditional laws or rules, although the Constitution prohibits the death penalty (*see* Section 5).

Prison conditions were harsh. Prisons were overcrowded and in poor condition. Escapes were frequent, including that of Marco Marino Diodato, a dangerous criminal charged with murder and narcotics crimes, who fled while receiving medical treatment. With the exception of the maximum-security prison of Chonchocoro in El Alto, government authorities effectively controlled only the outer security perimeter of each prison. Inside prison walls, prisoners usually maintained control, and criminal gangs operated from their cells without hindrance. Violence between prisoners and, in some cases, the involvement of prison officials in violence against prisoners were problems. Corruption was a problem among low-ranking and poorly paid guards and prison wardens. The number of persons held in detention centers, intended to hold persons prior to the completion of their trials and sentencing, significantly decreased due to provisions in the new CCP.

According to the Director General of the Penal System in the Ministry of Government, as of October, there were 6,768 prisoners (821 women and 5,947 men) in facilities designed to hold 4,700 prisoners.

A prisoner's wealth may determine cell size, visiting privileges, day-pass eligibility, and place or length of confinement. Cell prices reportedly were paid to prior occupants or to prisoners who controlled cellblocks. Although only children up to 6 years old were supposed to live with an incarcerated parent, children as old as 12 lived with their fathers in San Pedro prison. In October, there were approximately 730 children living with a parent in prison, as an alternative to being left homeless. The standard prison diet could cause anemia. The government's daily budget for a prisoner's food was $0.41 (3.3 bolivianos), and prisoners who could afford to do so supplemented the standard prison diet by buying food. Food and conditions at the almost empty Chimore detention facility were better than elsewhere. There was no adequate health care within the prisons, and it was difficult for prisoners to get permission for outside medical treatment. However, affluent prisoners could obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons, as in the case of Colombian National Liberation Army (ELN) suspect Francisco "Pacho" Cortes who was moved from Chonchocoro to San Pedro Prison. Inmates who could pay had access to drugs and alcohol.

There were no significant developments in the case of Mauricio "Chichuriru" Suarez who was found dead in his cell in Chonchocoro prison under mysterious circumstances in 2003. Other inmates were suspected in his death, but the case remained under investigation.

There are separate prisons for women, except for Morros Blancos prison in Tarija, where both men and women were incarcerated. Conditions for female inmates were similar to those for men; however, overcrowding at the San Sebastian women's prison in Cochabamba was worse than in most prisons for men.

There were 706 convicted juvenile (under the age of 21) prisoners who were not segregated from adult prisoners in jails. Rehabilitation programs for juveniles or other prisoners were scarce to nonexistent. Pretrial detainees were not held separately from convicted prisoners.

The Government permitted prison visits by independent human rights observers and news media representatives, and such visits took place during the year.

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

The National Police have primary responsibility for internal security, but military forces may be called upon for help in critical situations, which occurred during the year. Several senior police officers were fired and charged for off-duty crimes, and a number were dismissed for corruption. However, prosecutors were reluctant to prosecute security officials for alleged offenses committed while on duty, in part because they rely on the PTJ to investigate their own officers.

Arrests were carried out openly, but there were credible reports of arbitrary arrest and detention. The CCP requires an arrest warrant, and the police must inform the prosecutor of an arrest within 8 hours. The Constitution requires that a detainee must be presented before a judge within 24 hours. The CCP provides that within this 24-hour period a prosecutor must obtain a judge's determination as to the appropriateness of continued pre-trial detention or release on bail, and the judge must order the detainee's release if the prosecutor fails to show sufficient grounds for arrest; however, credible reports indicated that in some cases detainees were held for more than 24 hours without court approval.

Many prisoners still awaited either trial or sentencing, but the courts provided release on bail for some prisoners. Judges have the authority to order preventive detention for suspects under arrest deemed to be a flight risk or for obstruction of justice. If a suspect is not detained, a judge may order significant restrictions on the suspect's travel.

Prisoners could see a lawyer, but approximately 70 percent could not afford legal counsel, and public defenders were overburdened (*see* Section 1.e.).

Approximately 2,090 people have been trained in the new CCP, including judges, prosecutors, public defenders and police. Training for police and prosecutors included safeguarding human rights during criminal investigations.

Denial of justice through prolonged detention remained a problem, although the CCP provides that a detainee cannot be held for longer than 18 months awaiting trial and sentencing (*see* Section 1.e.). If the process is not completed in 18 months, the detainee may request release by a judge; however, judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures kept some persons incarcerated for months before trial.

Children from 11 to 16 years of age may be detained indefinitely in children's centers for known or suspected offenses, or for their protection, on the orders of a social worker. There is no judicial review of such orders (*see* Section 5).

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, corruption and inefficiency in the judicial system remained major problems. Poor pay and working conditions made judges and prosecutors susceptible to bribes.

The judicial system has three levels of courts: Trial Court, Superior Court, and the Supreme Court or Constitutional Tribunal. The Supreme Court hears appeals in general, while the Constitutional Tribunal only hears appeals on constitutional issues.

The CCP provides for a system of transparent oral trials in criminal trials; requires that no pretrial detention exceed 18 months; provides for a maximum period of detention of 24 months in cases in which a sentence is being appealed; and mandates a 3-year maximum duration for a trial.

The law provides that the prosecutor is in charge of the investigative stage of a case. The prosecutor instructs the police what witness statements and evidence are needed to prosecute the case. Counternarcotics prosecutors lead the investigation of narcotics cases. The prosecutor tries misdemeanor cases (with possible sentences of less than 4 years) before a judge of instruction and felony cases (with possible sentences of more than 4 years) before sentencing courts, each of which features a five-member panel that includes three citizen members and two professional judges.

Superior court review is restricted to a review of the application of the law. Supreme Court review, the third stage, is restricted to cases involving exceptional circumstances. During the Superior Court and Supreme Court reviews, the courts may confirm, reduce, increase, or annul sentences or provide alternatives not contemplated in lower courts.

Defendants have constitutional rights to a presumption of innocence, to remain silent, to have an attorney, to confront witnesses, to present evidence on their own behalf, to due process, and to appeal judicial decisions. In practice, almost none of these rights were protected systematically, although the CCP facilitated more efficient investigations, transparent oral trials, and credible verdicts.

The National Public Defense Service has been established to provide indigent defendants with a defense attorney at public expense. However, budget shortages led to reducing the Service's staff to 54 public defenders and 9 legal assistants, and there was a particular shortage of public defenders in rural areas.

The CCP also recognizes the conflict resolution (community justice) traditions of indigenous communities, provided that the resolution does not conflict with the rights and guarantees established under the Constitution.

The Judicial Council oversees the disciplinary aspects of the judicial process and provides an impartial body to review the actions of judges. Its powers include the authority to conduct administrative investigations and to censure for malpractice judges at all levels found culpable of malfeasance; however, the dismissal of a superior court or higher level judge requires a final judgment and sentence of conviction in a criminal case tried before the Supreme Court. The Council may suspend without pay, for up to 13 months, judges against whom a criminal charge has been filed or against whom a disciplinary process has been initiated.

The military justice system generally was susceptible to senior level influence and tended to avoid rulings that would embarrass the military. When a military member is accused of a crime related to his military service, the commander of the affected unit assigns an officer to conduct an inquiry and prepare a report of the findings.

The results of the findings are forwarded to a judicial advisor, usually at the division level, who then recommends a finding of either innocence or guilt. For major infractions, the case is forwarded to a military court. Authorities recognized conflicts over military and civilian jurisdiction in certain cases involving human rights. On May 7, the Constitutional Court overturned an earlier decision by the La Paz District Court in favor of re-trying in civil courts four military officers accused in deaths of two civilians and injuring another in February 2003. This decision set a precedent for trying military personnel in civilian courts in human rights cases involving the military and civilians. During the year, the armed forces benefited from international training on human rights and worked to reform its Military Code.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were credible allegations of security forces involved in thefts of property. Residents in the coca growing areas generally were reluctant to file and pursue formal complaints against security forces. Those who were engaged in alternative development activities were also reluctant to pursue formal complaints against coca growers because of fear of reprisals by the coca syndicates.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom; however, there were limitations on freedom of speech. Newspapers were privately owned and frequently adopted antigovernment positions. State-owned and private radio and television stations generally operated freely; however, there were instances when journalists were threatened, injured, or held hostage by private individuals or groups critical of their reports.

La Patria journalist Carmen Torres received death threats from members of the Inti Wara Wassi community, near Oruro, for having exposed the trafficking of wild animals. Police on occasion forcibly expelled reporters covering the news.

The Penal Code provides that persons found guilty of insulting, defaming, or slandering public officials for carrying out their duties may be jailed from 1 month to 2 years. If the insults are directed against the President, Vice President, or a minister, the sentence may be increased by one-half. Allegations that journalists have violated the Constitution or citizens' rights are referred to the 40-person Press Tribunal, an independent body authorized to evaluate journalists' practices. On January 21, in the first judgment rendered since its creation in 1929, the Tribunal found a reporter not guilty of charges that he caused injuries and defamation.

The Government prohibited the importation of pornographic books, magazines, and artwork.

The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association.—The law provides for the right of peaceful assembly, and the authorities generally respected this right in practice; however, security forces killed at least two persons and injured dozens of others during episodes of violent social unrest (*see* Section 1.a. and 1.c.).

The law provides for freedom of association, and the authorities generally respected this right in practice. The Government requires NGOs to register with the appropriate departmental government, but compliance was lax and authorities granted such registration easily.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Roman Catholicism predominates, and the Constitution recognizes it as the official religion. The Roman Catholic Church received support from the Government (approximately 300 priests received small stipends) and exercised a limited degree of political influence.

Non-Catholic religious organizations, including missionary groups, must register with the Ministry of Foreign Affairs and Worship and receive authorization for legal religious representation. The Ministry is not allowed to deny registration based on an organization's articles of faith, but the legal process can be time-consuming and expensive, leading some groups to forgo registration and operate informally without certain tax and customs benefits. Most registered religious groups were identified as Protestant or evangelical. No overt acts of societal violence were reported against Jewish people; however, one Jewish group voiced its concern over "skin head" groups who were disseminating anti-Semitic hate mail on the Internet.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. However, protesters blocked major highways at various times at different locations throughout the country. Blockades in Desaguadero and permanent check points by coca growers in La Asunta caused considerable economic damage. Although the Government did not revoke citizenship for political or other reasons, many Bolivian citizens lacked basic identity documents, which prevented them from obtaining international travel documents.

The Constitution prohibits forced exile of citizens, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers; however, at year's end, the Government had not accepted any of the 22 persons who applied for refugee status, in part, because of red tape and delays associated with the process.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. However, many citizens lacked identity documents necessary to vote. Political parties ranging from far left to moderate right functioned openly. Elections for national offices and municipal governments are held every 5 years.

In August 2002, Gonzalo Sanchez de Lozada of the centrist Nationalist Revolutionary Movement assumed the presidency after he was elected in a joint session of the Congress following the June 2002 national election. Although there were some allegations of vote-counting irregularities, most observers, including a mission from the Organization of American States, concluded that the elections were free and fair. On October 17, 2003, opposition protesters, including radical union and other dissidents and indigenous peasants (some of them coerced into protesting), forced President Sanchez de Lozada to resign from office. After a vote in Congress, Vice President Carlos Mesa Gisbert assumed office and restored order.

The National Electoral Court (CNE) and its lower departmental courts oversee the electoral process, including voter registration, tabulation, and certification of ballots. The CNE selects departmental electoral court members, and Congress chooses head departmental electoral members. On July 4, Congress enacted a law to permit small citizen and indigenous groups that meet certain criteria to participate in the municipal elections. On July 18, a majority of eligible voters participated in a peaceful and orderly national referendum on gas.

In addition to frequent complaints of corruption in the justice system, there was a high profile case of corruption involving former Minister of Government, Yerko Kukoc, who received a 2-year suspended prison sentence for wrongful use of government funds. There also were nepotism scandals in Congress and corruption cases involving senior police officials, most of whom were fired. NGOs involved in land takeovers and disputes were also suspected of illegal gain.

There was no specific information available on laws providing access to government information or whether the Government provided such access in practice.

There are no legal impediments to women or indigenous people voting, holding political office, or rising to political leadership. The law requires that every third candidate on party candidate lists be female. In addition, every other candidate on municipal election ballots, beginning with the second candidate, must be a woman—a requirement that increased female representation to approximately 30 percent of municipal council positions. There were 31 women among the 157 deputies and senators, 4 women among the 45 vice ministers, and 2 women in the 18-member Cabinet. There were no indigenous members of the Cabinet, and the number of indigenous members of the Chamber of Deputies was estimated at 25 percent—a figure difficult to confirm, since designation as indigenous is self-declared.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on

human rights cases. Government officials generally were cooperative and responsive to their views; however, NGOs and the Ombudsman complained that occasionally government security forces and ministries refused to cooperate with investigations conducted by the NGOs or the Ombudsman. Security forces continued to provide credible evidence that radical groups used some NGOs as a cover for subversive activities. For example, in April 2003, police in El Alto arrested Colombian ELN suspect Francisco "Pacho" Cortes, who was posing as a human rights worker. Cortes and two companions possessed narcotics, seditious material, weapons, and bomb-making equipment.

The Human Rights Ombudsman is a position with a 5-year term established in the Constitution. Congress chooses the Ombudsman, who is charged with providing oversight for the defense, promotion, and spread of human rights, specifically to defend citizens against abuses by the Government. Indigenous persons filed most of the complaints received by the Ombudsman. The congressional Human Rights Committee investigated alleged human rights abuses committed in 2003, including those in the Chapare and those related to the events of the February 12–13 and the September-October gas war. On October 14, the Congress voted to allow the Supreme Court to try former President Sanchez de Lozada and his former 15 cabinet members for the events of October 2003. The Public Ministry was also investigating the October and February 2003 events.

The CCJHR continued to be active in the Chapare region and moved to expand its role as an "Integrated Justice Center" to include conflict resolution. It reported its findings to the Vice Ministry of Justice in the Ministry of the Presidency, disseminated human rights information, accepted complaints of abuses committed, kept records, and referred complaints to the Public Ministry. The CCJHR also housed a medical forensic expert and an investigative staff to review complaints.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination based on race, sex, language, political or other opinion, origin, or economic or social condition; however, there was significant discrimination against women, indigenous people, and the small Afro-Bolivian minority.

Women.—Violence against women was a pervasive and underreported problem. According to the Center for the Information and Development of the Woman (CIDEM), women made 86 percent of the 22,039 complaints of physical, psychological, and sexual abuse reported to the Family Protection Brigades or municipal legal services in the major cities of La Paz, Santa Cruz, Tarija, Sucre, Oruro, Potosi, Trinidad, Cochabamba, and El Alto between January and August. CIDEM noted that the statistics "did not reflect the full magnitude of the problem of violence against women" and that "a great number of women" did not report the aggression they faced on a daily basis.

The family laws prohibiting mental, physical, and sexual violence provided penalties of fines or up to 4 days in jail, uncless the case becomes a public crime subject to the Penal Code; however, these laws were enforced irregularly. The Government took few meaningful or concrete steps to combat domestic violence.

Rape also was a serious but underreported problem. The Law on Domestic and Family Violence makes the rape of an adult a public crime; however, the victim must press charges. The law criminalizes statutory rape, with penalties of 10 to 20 years for the rape of a child under the age of 14, 2 to 6 years for the statutory rape of a person from 14 to 18 years of age, and 5 to 20 years for forcible rape of a child. Forcible rape of an adult is punished by sentences ranging from 4 to 10 years' imprisonment. The CCP provides that crimes against adults included in previous laws on sex crimes may be made public crimes; however, the victim still must testify. Sexual crimes against minors automatically are considered public crimes in which the state presses charges.

Prostitution is legal for adults age 18 and older, and there were reports of trafficking in women for the purposes of prostitution and forced labor (*see* Section 5, Trafficking).

The CCP considers sexual harassment a civil crime. There were no statistics on the incidence of sexual harassment, but it generally was acknowledged to be widespread.

Legal services offices devoted to family and women's rights operated throughout the country. The Maternal and Infant Health Insurance Program provided health services, focused on maternal and infant health, to women of reproductive age and to children under the age of 5.

Women enjoyed the same legal rights as men; however, many women were unaware of their legal rights, although the Government sponsored seminars on women's legal rights. The Vice Ministry of Women in the Ministry of Sustainable Devel-

opment has responsibility to ensure the legal rights of women. Women generally did not enjoy a social status equal to that of men. Traditional prejudices and social conditions remained obstacles to advancement. In rural areas, for instance, traditional practices restricting land inheritance for women remained a problem. The minimum wage law treats men and women equally; however, women generally earned less than men did for equal work. Women sometimes complained that employers were reluctant to hire them because of the additional costs (mainly maternal) in a woman's benefits package. The gender gap in hiring appeared widest in the higher education brackets. Most women in urban areas worked in the informal economy and the services and trade sectors, including domestic service and micro-business, whereas, in rural areas, the vast majority of economically active women worked in agriculture. Young girls often left school early to work at home or in the informal economy. For the first time, a woman, Lieutenant Colonel Gina Reque Teran, assumed command of a major army unit.

Leading women's rights groups included the Campesinas of Bolivia Bartolina Sisa, which focuses on rural indigenous women, and CIDEM.

Children.—The Government did not give the situation of children sufficient political priority to improve conditions appreciably. The Code for Boys, Girls, and Adolescents establishes the rights of children and adolescents, regulates adoptions, and protects against exploitative child labor and violence against children; however, resource constraints impeded full implementation of this law. There are seven Defender of Children and Adolescents offices to protect children's rights and interests.

Public schooling was provided up to age 17 or grade eight; the law requires all children to complete at least 5 years of primary school; and primary education was free and universal. However, enforcement of the education law was lax, particularly in rural areas, where more than half of the primary schools offered only three of eight grades. An estimated 50 percent of children completed primary school, and an estimated 26 percent graduated from high school. There were no significant gender differences in access to basic education, although girls continued to drop out at a higher rate than boys, particularly in the rural areas.

Medical care is free up to age 5, and was no apparent difference in such access based on gender. After age 5, "pilot centers" offered subsidized health care, although, in rural areas, clinics often were not available. In rural settings, when required to pay medical costs, families often gave preference to treating boys. Many children, particularly from rural areas, lacked birth certificates and the identity documents they needed to secure social benefits and protection. The Government made some progress in implementing its plan to provide these documents free of charge.

Physical and psychological abuse in the home was a serious problem. Corporal punishment and verbal abuse were common in schools. Children from 11 to 16 years of age may be detained indefinitely in children's centers for suspected offenses or for their own protection on the orders of a social worker. UNICEF estimated that approximately 13,000 children lived in institutions where their basic rights were not respected. There also were many children living on the streets of major cities.

Child prostitution was a problem, particularly in urban areas and in the Chapare region. There were reports of children trafficked for forced labor to neighboring countries (*see* Section 5, Trafficking).

Child labor was a serious problem (*see* Section 6.d.).

Several NGOs had active programs to combat child prostitution. The Government's plan to combat child labor included a public information campaign against child prostitution and raids against brothels.

Trafficking in Persons.—The law prohibits trafficking in persons for sexual exploitation; however, there were credible reports that persons were trafficked within, from, and through the country.

The Law for the Protection of the Victims of Crimes Against Sexual Freedom specifically criminalizes trafficking in persons for the purpose of prostitution and provides for terms of imprisonment beginning at 4 years and ranging up to 12 years when the victim is less than 14 years of age. There were some arrests under this statute. While there was no complete information available on convictions of traffickers, the National Police reported 18 convictions in 2003 under the Corruption of Youth Law, which covers trafficking of minors for prostitution.

The Ministry of Government, including the National Police and Immigration, as well as the Ministries of Foreign Affairs, Labor, Defense, and the Vice Ministry for Youth, the Child, and the Elderly, were responsible for anti-trafficking efforts.

The country is a source for men, women, and children trafficked for forced labor and sexual exploitation to neighboring countries such as Argentina, Chile, Brazil, Spain, and the United States; however, there were no reliable estimates on the extent of the trafficking. Faced with extreme poverty, many citizens were economic mi-

grants, and some were victimized by traffickers as they moved from rural areas to cities and then abroad. Women and children, particularly from indigenous ethnic groups in the altiplano region, were at greater risk of being victimized. Children were trafficked within the country to work in prostitution, mines, domestic servitude, and agriculture, particularly harvesting sugar cane. Weak controls along its extensive five borders made the country an easier transit point for illegal migrants, some of whom may have been trafficked. Commercial sexual exploitation of children was a problem.

While there were reports that some adolescents were sold into forced labor, it appeared that most victims initially were willing economic migrants who were duped or later coerced into accepting jobs that turned out to be forced labor.

Some government officials reportedly took bribes to facilitate smuggling and the illegal movement of people; however, the Government did not condone or facilitate trafficking and removed at least 19 immigration officials on suspicion of corruption. It was not known whether any of those dismissed were accused of involvement with trafficking. The Government also took measures, such as instituting a system of checks and balances at official border crossings and airports, to reduce corruption among judicial officials responsible for authorizing unaccompanied travel abroad of those under age 18.

The Government promoted some educational measures to address trafficking, and Vice Ministry for Youth, the Child, and the Elderly conducted informational campaigns on the rights of children and women. The Government, in conjunction with UNICEF, provided free birth and identity documents to thousands of undocumented citizens, to reduce their vulnerability to being trafficked.

The Defenders of Children offices in municipalities, sometimes in cooperation with NGOs, managed scattered assistance programs for victims.

The NGO Terre des Hommes conducted public awareness campaigns on trafficking of children.

Persons With Disabilities.—There was no official discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. However, societal discrimination kept many persons with disabilities at home from an early age, limiting their integration into society. The Law on Disabilities requires wheelchair access to all public and private buildings, duty free import of orthopedic devices, a 50 percent reduction in public transportation fares, and expanded teaching of sign language and Braille. A National Committee for Incapacitated Persons was mandated to oversee the law's enforcement and to channel and supervise programs and donations for persons with disabilities; however, there was little information on its effectiveness. The electoral law requires accommodation for blind voters; however, in general, there were no special services or infrastructure to accommodate persons with disabilities. On May 6, the President issued a Supreme Decree that requires that 4 percent of the government's new hires be persons with disabilities.

National/Racial/Ethnic Minorities.—There was societal discrimination against the small Afro Bolivian minority, who generally remained at the low end of the socioeconomic scale and faced severe disadvantages in health, life expectancy, education, income, literacy, and employment. The majority of the estimated 25,000 Afro-Bolivians live in the Yungas region of the Department of La Paz.

Indigenous People.—In the 2001 census, approximately 62 percent of the population over 15 years of age identified themselves as indigenous, primarily from the Quechua and Aymara groups. Indigenous protesters were major protagonists in the events leading up to the October 2003 resignation of President Sanchez de Lozada. The Agrarian Reform Law provides for indigenous communities to have legal title to their communal lands and for individual farmers to have title to the land they work. The Government and indigenous leaders jointly developed provisions of this law. However, the issue of land, specifically the Agrarian Reform Law, was a continuing source of complaints and protests by indigenous people. Indigenous people complained that some of their territories were not defined legally or protected and that outsiders exploited their resources. Indigenous peasants illegally occupied several private properties belonging mostly to former government officials, often with the backing of the NGO Landless Movement.

Indigenous groups availed of the Popular Participation Law to form municipalities that offered them greater opportunities for self determination. Two political parties and a number of NGOs were active in promoting the rights of indigenous peoples. The CCP recognizes the conflict resolution traditions of indigenous communities (*see* Section 1.e.). On June 15, mayor Benjamin Altamirano was lynched and burned by the indigenous townspeople of Ayo Ayo in an incident that some claimed was tribal justice (*see* Section 1.a.).

Section 6. Workers Rights

a. The Right of Association.—The Constitution and the Labor Code provide that workers have the right to form trade unions; however, inefficient labor courts and inadequate government regulation at times limited the exercise of this right by workers. Approximately 25 percent of the workers in the formal economy—which employed approximately 30 percent of all workers—belonged to unions.

Workers may form a union in any private company of 20 or more employees; however, an estimated 70 percent of workers were employed in micro or small enterprises with fewer than 20 employees. Public sector workers also have the right to form a union. The Labor Code requires prior government authorization to establish a union and confirm its elected leadership, permits only one union per enterprise, and allows the Government to dissolve unions by administrative fiat.

Labor laws intended to protect workers' rights to freedom of association and to form and join trade unions were inadequate. They did not deter employers from retaliating against workers and do not protect workers against interference by employers with the workers' right of association. Complaints of anti-union discrimination go to the National Labor Court, which can take a year or more to rule due to a significant backlog of cases. The court ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders said that problems were often moot by the time the court ruled.

b. The Right to Organize and Bargain Collectively.—The Constitution and the Labor Code provide workers with the right to organize and bargain collectively; however, collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the Government, was limited. Most collective bargaining agreements were restricted to wages and excluded other conditions.

The Labor Code provides for the right to strike but requires unions to revert to government mediation before beginning a strike and employers to do likewise before initiating a lockout. The practice of direct employee-management negotiations in individual enterprises expanded.

There were numerous strikes organized by a variety of different sectors. In June, the COB called for an indefinite strike to pressure the Government, but most groups did not participate.

The Labor Code bans strikes in public services, including banks and public markets; however, workers in the public sector frequently did strike, with strikes by teachers, and transportation and health care workers the most common. Public sector employees have not been penalized for strike activities in recent years. Solidarity strikes are illegal, but the Government neither prosecuted nor imposed penalties in such cases.

Labor law and practice in the seven special duty-free zones are the same as in the rest of the country.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, the practices of child apprenticeship and agricultural servitude by indigenous workers continued, as did some alleged individual cases of household workers effectively held captive by their employers (*see* ections 5 and 6.d.). Three reports issued during the year by the International Labor Organization (ILO) and UNICEF on the worst forms of child labor and violence against children and adolescents implied that the abuses and lack of payment of wages constituted forced labor in the agriculture, mining, and other sectors, because entire families worked in these activities and children usually were unaware of their wages.

Trafficking of women and children was a problem (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor was a serious problem. The law prohibits all work for payment by children under the age of 14; however, in practice, the Ministry of Labor generally did not enforce child labor laws, including those pertaining to the minimum age and maximum hours for child workers, school completion requirements, and health and safety conditions for children in the workplace. The law prohibits a range of dangerous, immoral, and unhealthy work for minors under the age of 18. Labor law permits apprenticeship for 12- to 14-year olds under various formal but poorly enforced restrictions, which have been criticized by the ILO and were considered by some to be tantamount to bondage (*see* Section 6.c.). In June 2003, the country ratified ILO Convention 182 on the Worst Forms of Child Labor.

Approximately one in every four children between the ages of 7 and 14 was employed in some way, usually in uncontrolled and sometimes unhealthy conditions. UNICEF estimated that 800,000 children were engaged in some type of work. Although the Code of Childhood and Adolescence bars persons under 18 years of age

from work in the sugarcane fields, approximately 10,000 rural migrant children worked in this activity. The 2004 ILO/UNICEF study of the sugarcane harvest entitled "Sweet Cane, Bitter Life" characterized it as one of the worst forms of child labor, in part, because 90 percent of the children engaged in this activity did not attend school and worked up to 12 hours per day, often under unhealthy or dangerous conditions. Despite government and company efforts to dissuade child labor, extreme poverty underlay the need of many families to have their children work.

The Labor Ministry is responsible for enforcing child labor provisions but did not enforce them throughout the country. The Government reported that approximately 800,000 children and adolescents between the ages of 7 and 19 were engaged in some type of work. Urban children sold goods, shined shoes, and assisted transport operators. Rural children often worked with parents from an early age, generally in subsistence agriculture. Children generally were not employed in factories or formal businesses but, when employed, often worked the same hours as adults. Children also worked in mines and other dangerous occupations in the informal sector. Narcotics traffickers used children to transport drugs. Child prostitution remained a problem (*see* Section 5).

The traditional practice of "criadito" service persisted in some parts of the country. Criaditos are indigenous children of both sexes, usually 10 to 12 years old, whom their parents indenture to middle- and upper-class families to perform household work in exchange for education, clothing, room, and board. Such work is illegal, and there were no controls over the benefits to, or treatment of, such children.

The Labor Ministry is responsible for enforcing child labor provisions but did not enforce them throughout the country. The Government devoted minimal resources to investigating child labor cases, but NGOs and international organizations, such as UNICEF, supplemented the government's efforts.

The Government continued its efforts to eliminate child labor in its worst forms, in particular, working with NGOs to discourage the use of child labor in the mining and sugar sectors by participating in internationally funded programs to provide educational alternatives to children who otherwise would work in mines or in sugarcane fields.

e. Acceptable Conditions of Work.—The Government established the minimum wage for the public and private sectors by supreme decree following traditional negotiation with the COB. The wage of $ 55 (440 bolivianos) per month plus bonuses and fringe benefits did not increase from the previous year. The minimum wage did not provide a decent standard of living for a worker and family, and most formal sector workers earned more, although many informal sector workers earned less. Although the minimum wage fell below prevailing wages in most jobs, certain benefit calculations were pegged to it. The minimum wage did not cover the large number of workers in the informal sector.

The law, which was not effectively enforced, establishes an 8-hour workday and a maximum workweek of 48 hours, limits women to a workday 1 hour shorter than that of men, prohibits women from working at night, mandates rest periods, and requires premium pay for work above a standard workweek. The Labor Ministry's Bureau of Occupational Safety has responsibility for protection of workers' health and safety, but relevant standards were enforced poorly. Many workers died due to unsafe conditions. A national tripartite committee of business, labor, and government representatives was responsible for monitoring and improving occupational safety and health standards. The Labor Ministry maintained a hotline for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions.

Working conditions in the mining sector particularly were poor. Although the State Mining Corporation has an office responsible for safety, many mines, often old and using antiquated equipment, were dangerous and unhealthy. In some mines operated as cooperatives, miners earned less than $ 2.75 (22 bolivianos) per 12-hour day. Miners in such cooperatives worked in dangerous, unhealthy conditions with no scheduled rest periods for long periods. The law does not specify when workers may remove themselves from dangerous situations.

BRAZIL

Brazil is a constitutional federal republic composed of 26 states and the Federal District. The federal legislative branch exercises authority independent of the executive branch. In October 2002, voters elected President Luiz Inacio Lula da Silva ("Lula") of the Workers' Party (PT) to a 4-year term in a free and fair election. The

Constitution provides for an independent judiciary; however, it was inefficient and, particularly at the state level, subject to political and economic influences.

The military is responsible for national defense and generally played little role in internal security. The federal police force is very small and primarily investigative; most police forces fall under the control of the states. The "civil police" are plainclothes officers with an investigative role, and the "military police" are uniformed police responsible for maintaining public order, with a separate judicial system. While civilian authorities generally maintained effective control of the security forces, members of the security forces committed numerous serious human rights abuses, primarily at the state level.

The country has a diversified market-based economy and a population of approximately 182 million. Industrial production (including mining operations and the capital goods sector) accounted for 39 percent of gross domestic product (GDP). The agriculture sector contributed 10 percent and services the remainder. High government net debt (approximately 55 percent of GDP) complicated fiscal and monetary policymaking. GDP grew approximately 5 percent during the year, and average wages kept pace with inflation after several years of sharp decline. Income distribution remained highly skewed.

The Federal Government generally respected the human rights of its citizens; however, there continued to be numerous, serious abuses, and the record of several state governments was poor. State police forces (both civil and military) committed many unlawful killings and killings due to excessive force. Police also were implicated in killings for hire and death squad executions of suspected criminals, persons considered undesirable, indigenous people, and labor activists. Police tortured and beat suspects and arbitrarily arrested and detained persons. Despite its powers to do so, the federal police failed to act in the numerous human rights violations by state authorities, and failure to punish perpetrators perpetuated a climate of impunity.

Prison conditions often were poor or extremely harsh and life-threatening. Prison officials frequently tortured and beat inmates, including in juvenile detention centers. The judiciary had a large case backlog and often was unable to ensure the right to a fair and speedy trial. Justice remained slow and unreliable. Victims, particularly suspected criminals, had difficulty in being heard by oversight bodies. Investigations of human rights abuses by police officials normally were limited to internal police reviews and seldom were subject to independent review. Military police tribunals remained overloaded, rarely investigated cases thoroughly, seldom convicted abusers, and allowed many military and civil police officers involved in unlawful killings or the abuse of prisoners to go unpunished.

Violence and discrimination against women; child abuse and prostitution; and trafficking in persons, particularly women and children for the purpose of prostitution and slavery, remained problems. Government authorities often failed adequately to protect indigenous people from outsiders who encroached on their lands or to provide them with adequate health care and other basic services in many areas. Afro-Brazilians and homosexuals continued to face societal discrimination and, on occasion, violence. Intimidation and killings of rural labor union organizers and their agents continued to be a problem. Rural violence, including the killings of land reform and rural labor activists, persisted. Forced labor was a widespread problem, and violators enjoyed virtual impunity. Child labor was a widespread problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary and Unlawful Deprivation of Life.—There were no reported politically motivated killings by the Government or its agents; however, unlawful killings by state police (military and civil) remained a serious problem throughout the country.

In January, the U.N. released the report of its Special Rapporteur on Summary Executions, Asma Jahangir, which was based on her 22-day visit to the country in September and October 2003. Although the Rapporteur found no comprehensive official disaggregated data on police killings, she noted that the "use of deadly police violence against civilians was rife" and that available information "indicated an alarmingly high rate of police killings." Historical information indicated that on-duty officers were responsible for less than half of the homicides by police (the great majority of the killings being committed by military police), while off-duty police were responsible for more than half of such homicides. Government officials (including President Lula) acknowledged the continued problem of unlawful killings by law enforcement officials.

Death squads with links to law enforcement officials carried out many of the killings, in some cases with police participation. According to U.N. Special Rapporteur Jahangir, "many high-ranking officials" acknowledged that "many death squads had ties with state police." The National Human Rights Secretary stated that death squads operated in 15 states. Credible, locally-based human rights groups reported the existence of organized death squads linked to police forces that targeted suspected criminals and persons considered "undesirable"—such as street children—in almost every state.

The Sao Paulo State Secretariat for Public Security reported that Sao Paulo police (civil and military) killed 322 civilians in the first 8 months of the year compared with 868 civilians during 2003; off-duty policemen were responsible for 54 of the killings. The Ombudsman's Office of the state police of Sao Paulo received 165 complaints of killings committed by police between January and September.

There were numerous allegations of police abuses in the city of Sao Paulo, particularly in the northern district (Parque Novo Mundo neighborhood) and in the eastern district (Sapopemba neighborhood). Some of the alleged abuses included the killing of civilians. Parque Novo Mundo residents allegedly suffered arbitrary abuse committed by members of the Military Police 5th Battalion and the 6th Company, including death threats, home invasions, attempts to extract incriminating evidence against members of the community, extortion, and killings of community youth. In many of the cases, victims reported that the police removed their name badges and called each other by nicknames. Human rights activists suspected police involvement with organized crime in the region. Members of the community met repeatedly with the police ombudsman and human rights activists to complain about the abuse. Following the meetings, police abuse reportedly continued, and several community leaders received death threats.

Rio de Janeiro's Security Secretariat reported that state police killed 593 persons during the first 8 months of the year, a 25 percent decline from last year's figure; however, unofficial reports estimated that approximately 3,000 police killings occurred during the year.

In May, the Sao Paulo State Secretary for Public Security reported that internal affairs for both the civil and military police were investigating cases of death squad activity in Guarulhos and Riberao Preto, both large cities in Sao Paulo State. The National Secretary for Human Rights had established a commission in 2003 to investigate these cases.

The 2003 military police internal affairs investigation into the existence of a police death squad that allegedly targeted and killed troublemaking youths in Guarulhos, Sao Paulo, continued. Two military policemen and two private security guards were charged in the April 2003 killing of three adolescents and remained in jail at year's end. The State Public Prosecutor's Office indicted 11 policemen for participation in the death squad and investigated 27 others. The office also requested special protection for the targeted youths and their families.

In November 2003, the Ribeirao Preto Public Prosecutor's office indicted civil policemen Thiago Ferreira da Silva Moreira and Ricardo Jose Guimares for the May 2003 death of Thiago Xavier Stefani and participation in a Ribeirao Preto death squad linked to 30 other deaths. Moreira, who was already in prison for trafficking stolen cargo, was released on May 13. Guimares, charged with the death of Tatiana Assuzena, escaped from prison on June 10. The Sao Paulo Civil Police internal affairs office continued to investigate Moreira and Guimares' involvement in the death squad. Internal Affairs was also investigating the participation of civil policemen Pedro Moretti, Sergio Siqueira, Fernando Serrano, and the former director of the forensics unit in Ribeirao Preto, Carlos Sampaio. On June 15, the Civil Police commander of Ribeirao Preto, Jose Manoel de Oliveira, was replaced.

Two witnesses who reportedly had information about death squads, Flavio Manoel da Silva and Gerson de Jesus Bispo, were killed in October 2003 in Bahia and Pariaba States after separate meetings in September 2003 with the visiting U.N. Special Rapporteur on Summary Executions. Authorities arrested two persons in the da Silva killing and two military police officers for Bispo's killing, but neither case had gone to trial by year's end.

In many cases, police officers employed indiscriminate lethal force during apprehensions, killing civilians despite the lack of any real danger to themselves. U.N. Rapporteur Jahangir's analysis concluded that such "police killings are often poorly disguised extrajudicial executions." In some of these cases, the civilian's death followed severe harassment and even torture by law enforcement officials (*see* Section 1.c.).

In January, military police officer Ivan Cesar Salvador of Sao Jose dos Campos in Sao Paulo State shot and killed Ednilson da Silva. The officers reportedly were searching for youths who had robbed a nearby gas station when they stopped the

car in which da Silva and his friends were riding. Da Silva, a student who stuttered and was deaf in one ear, reportedly did not quickly answer the policeman's questions. Salvador was arrested for homicide, and the military police initiated an internal affairs investigation; however, on January 13, Salvador was released under the military penal code. The Sao Paulo Police Ombudsman criticized the release, noting that Salvador had been investigated in 2002 for another homicide.

On February 3, police shot and killed Flavio Sant'Ana, an Afro-Brazilian dentist, as he walked down the street in the city of Sao Paulo. Police Lieutenant Carlos Alberto de Souza and four officers reportedly were searching for an Afro-Brazilian male who had robbed storeowner Antonio Alves dos Anjos when they encountered Sant'Ana. Anjos told police investigators that that officers opened fire as soon as they saw Sant'Ana. All five officers were arrested; Souza and two others were charged with the killing, possession of an illegal weapon, and coercion. The trial was pending at year's end. Press and human rights activists alleged that the killing was racially motivated.

On July 31, in Brasilia, military policeman Marcos Aurelio Epifanio shot and killed Fernando Santos Maia da Conceicao, a university student. The policeman alleged that he had been informed about a robbery at a gas station and the suspects reportedly were driving a car identical to Maia da Conceicao's. Local television stations filmed police officials removing the car from the scene and alleged that the police did not properly investigate the incident.

On May 15, in Sao Paulo city, four military policemen shot Parque Novo Mundo housewife Raimunda Furtado while she was purchasing bread at a supermarket. According to witnesses, the police first mistook her for a robber and subsequently refused to provide first aid. Furtado died at the scene. Military policeman Fabio Trevisoli, who claimed that it was an accidental shooting, was arrested later that evening for the killing. On June 19, the Military Police internal affairs office announced that 15 of the policemen suspected of making threats and committing abuse against the community had been placed under administrative arrest. The majority of the policemen arrested belonged to the 5th Battalion. In September, the military public prosecutor requested that the case be brought before the public judicial system. On December 17, Trevisoli was formally indicted for murder before the public courts. Three other military policemen, Alberto Massahiko Suganuma, Helio Correia de Lima, and Joanito Queiroz Pereira, were formally accused of prevarication and failure to administer first aid.

U.N. Rapporteur Jahangir noted that some members of the police exploited an overall climate of violence to deliver "rough" justice to those whom they consider "socially 'undesirable.'" In August, 16 homeless persons were attacked in a series of incidents during early morning in downtown Sao Paulo; 7 died as a result of the attacks. On September 14 and 16, police arrested military police officers Jayner Aurelio Porfirio and Marcos Martins Garcia and private security guard Manoel Alves Tenorio for the killings. The State Secretary for Public Security announced that he believed the suspects were involved in a clandestine security scheme involving the trafficking of drugs. In November, the state attorney's office requested that the investigation be reopened after arguing that there was not enough evidence for indictments; charges were then dropped against all three, although Porfirio and Garcia remained in prison on drug trafficking and treason charges. An investigation by the state attorney's office revealed that, during the past 3 years, 58 similar attacks against homeless persons resulted in 24 deaths.

At the end of August, off-duty policeman Clecio Barbosa Ayres shot and killed journalism student Thomas Schwarzenberg Vicente on the Imigrantes Highway between Sao Paulo and Santos. Vicente was returning with friends from the beach when he hit Ayres's bumper. Military highway police arrested Ayres and charged him with first-degree murder. He was in prison awaiting trial at year's end.

A police internal affairs investigation into the involvement of 13 military police arrested for the May 2003 killing of William Douglas Santos and Farbricio da Conceicao in Campinas, Sao Paulo, progressed to the police inquiry stage at the Campinas court.

In August, Rio Grande do Sul military policemen Ronaldo de Freitas Garcia and Fabio Rosa Dorneles were convicted of killing Gustavo Fernando Burchardt during a high speed chase in July 2003. At year's end, the two were awaiting sentencing.

No new information was available regarding highway patrolman Jose Vargas de Oliveira, accused of killing a truck driver who refused to pay a bribe in Campos, Sao Paulo State, in 2002. He was tried by jury in Campos in May 2003.

Numerous credible reports indicated the involvement of state police officials in revenge killings and the intimidation and killing of witnesses involved in testifying against police officials (*see* Section 1.e.).

Police officers accused of crimes less serious than willful murder are prosecuted in special military tribunals. Civilian courts have jurisdiction over police murder, but the requirement that the initial investigation be carried out by police internal affairs officers increased the potential for long-languishing investigations (*see* Section 1.e.).

No further information was released on the 2002 case involving a military police organization called Group for Repression of Crimes of Intolerance (GRADI). Police internal affairs and state prosecutors were investigating GRADI's connection to the 2002 highway killings of 12 members of the criminal faction and prison gang, First Command of the Capital (known as the PCC). In December 2003, the Sao Paulo State prosecutor brought charges of homicide against the police involved, including a colonel, his deputy commander, and the lieutenant colonel in charge of GRADI. GRADI officers were accused of 27 other killings, although no homicide charges were brought against them, and all of the officers continued on active duty, with the exception of the former GRADI coordinator, who retired. GRADI was officially dissolved in April 2003, but human rights groups believed that police from this group still operated in a similar, although unofficial, manner. The Police Ombudsman's office was unable to obtain information on developments in the investigations. Credible locally-based human rights activists claimed that the case has been placed under "secret seal" due to the organization's connections to the state secretary of public security.

There were no new developments in the investigation of Sao Paulo military policemen who allegedly burst into a bar in 2002 in the Baixada Santista region of Sao Paulo State and killed five adolescents and the bar owner while searching for a youth who stole a sergeant's weapon.

The Campinas lower instance jury court agreed to hear the case of the anti-kidnapping police investigator accused of killing Jorge Jose Martins in his Campinas, Sao Paulo home in 2002. The judge has summoned witnesses for oral testimony in June 2005.

On October 17, 2003, a jury in Itanhaem convicted military police officers Mauricio Miranda and Silvio Ricardo Monteiro Batista for the 2002 killings of Anderson do Carmo and Celso Gioielli Magalheas Junior in Guaruja, Sao Paulo State, and expelled both officers from military police service.

An investigation continued in the 2001 case in which five civil police killed four individuals suspected of involvement in the killing of the mayor of Caraguatatuba, Sao Paulo. In April, upon court orders, forensics investigators reconstructed the killings. In May, the mayor's widow, Roseana Garcia, met with President Lula to request that the federal police become involved in the investigation.

Rapporteur Jahangir stated that 75 percent of those she interviewed at the juvenile detention center in the Bras neighborhood in Sao Paulo city reported "having been eyewitnesses of extrajudicial killings by the police."

No further information was available on the criminal trial of Carlos Alberto Xavier do Nascimento, former director of security and discipline of the Andradina Penitentiary in Sao Paulo State. He was charged with three homicides in the 2001 asphyxiation deaths of three prison gang members reportedly involved in prison rebellions.

There were no developments in the case of 85 police officers awaiting trial for their participation in the 1992 Carandiru prison massacre in which 111 prisoners were killed. The murder conviction of retired Colonel Ubiratan Guimaraes for his part in the massacre remained under appeal, and he remained free and continued to serve as an elected state deputy.

The use of torture by police sometimes led to the death of the victims (*see* Section 1.c.).

There were reliable reports of killings of government officials by those who had vested interests in the officials' professional activities.

On January 28, four Labor Ministry inspectors were killed in the town of Unai in Minas Gerais State. On the day before the killing, the four officials had found irregularities on a farm belonging to Norberto Manica. Manica was detained along with nine other suspects, including his brother, Anterio, who was elected mayor of Unai in October. At year's end, all suspects were in jail, excluding Anterio, who as an elected official is entitled to certain immunities. The federal Congress created a parliamentary commission in April to investigate the deaths. The commission last met in June but had not issued a report by year's end.

In September, two police officers were convicted and sentenced to 25 years in prison for the March 2003 murder of Judge Alexandre Martins de Castro Filho in Vitoria, Espirito Santo State.

There were numerous killings of indigenous people, mostly related to land disputes (*see* Section 5) and of rural labor union organizers (*see* Section 6.a.).

The Ombudsman's Office of the Ministry of Agrarian Development reported 31 rural killings for the period between January 1 and November 30.

Many persons were killed in recent years in conflicts involving land ownership and usage. The organization Landless Rural Workers' Movement (MST) continued its campaign of invasion and occupation of private and public lands to spur agrarian reform. The MST also continued its occupation of public buildings. MST activists sometimes used confrontational and violent tactics and destroyed private property during some occupations.

On July 31, in Parana State, an MST activist was killed and six others injured, allegedly by private security guards, during an attempted land invasion at the Santa Filomena ranch. Police isolated the area after the conflict, and the state government appointed a special investigator to conduct an inquiry into the murder. No further information was available at year's end.

The March 2003 killing in Tamandare, Pernambuco State, of the president of Rural Workers from Mascatinho Settlement Association, Jose Candido da Silva, remained under investigation at year's end.

No further information was available on the September 2003 killing of MST leader Paulo Sergio Brasil and 3 other MST members by security guards as they were moving with 100 others to invade the Coquerio Ranch in Foz do Jordao, Parana State. Authorities charged eight guards with homicide and one MST member with attempted homicide and placed them under investigative detention. The Parana State secretary for public security announced that the guards had been imprisoned and the crime was likely planned beforehand.

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

Police were implicated in kidnappings for ransom. Uniformed and civil police involvement in criminal activity, including kidnapping and extortion, was widespread.

In June, three adolescents were chased, kidnapped, and killed in the Parque Novo Mundo neighborhood in Sao Paulo city by officers of a special military police mobile unit. According to the victims' families, military policemen searched men attending the victims' funerals to intimidate attendees. In lieu of punishment, the policemen were transferred to the administrative section of the police department and received a psychological evaluation, which is normal for police officers who are present during the death of a suspect.

On November 29, police arrested military policeman Anderson Goncalves Viana and his brother-in-law as suspects in a building invasion, which occurred the previous day. Fifteen masked men invaded a condominium building in northern Sao Paulo city and held occupants hostage for hours while they ransacked the apartments. Both Viana and his brother in law were found with weapons, ammunition, money, and stolen goods.

An internal investigation resulted in the recommendation to dismiss Sao Paulo civil police narcotics investigators Arnaldo Barbosa Filho and Ricardo Kochi, who were charged in May 2003 with the kidnapping of Jonathan Wink Soligo and Jefferson Santana de Souza. No further information was available on the result of actions taken on the recommendation.

The internal affairs departments of the civil and military police initiated administrative disciplinary procedures in the case of two Sao Paulo civil policemen from the Anti-Kidnapping Division and a military policeman who were charged with a June 2003 kidnapping. The investigations continued at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the law prohibit torture and provide severe legal penalties for its use; however, torture by police and prison guards remained a serious and widespread problem.

The NGO National Movement for Human Rights, which administered the Ministry of Justice's torture hotline, Torture SOS, reported receiving 2,532 calls alleging torture or inhuman or degrading treatment from November 2001 to the end of January. The NGO also reported that most allegations of institutional torture took place in rural areas. Actual incidents of torture may have been significantly higher than use of the hotline indicated because of underreporting and because ombudsmen, police stations, and state commissions also received complaints. The Sao Paulo State Police Ombudsman's Office received 38 complaints of torture from January through September. In July, the Torture SOS hotline ceased functioning, as the Federal Government withdrew from its commitment to assume the hotline's operations.

The National Movement for Human Rights reported that police and prison guards were responsible for nearly 80 percent of the reported cases of torture and that most victims were young, poor, Afro-Brazilian men from less-developed regions. For the period October 2001 to June 2003, it reported an average of 150 cases per month,

a rate that reportedly did not change significantly during the year. Most reports came from remote cities in the interior where low-ranking police were in charge.

The NGO Christian Association for the Abolition of Torture estimated that it had received complaints of 600 new cases of torture in the Sao Paulo State prison system from the end of 2002 until mid-year.

According to a state public prosecutor for children and youth (responsible for defending the rights of incarcerated youth), as of July, there were 14 ongoing cases of torture claims in Sao Paulo's juvenile detention system (FEBEM). Over 170 prison officials had been accused of practicing torture, but approximately 70 of them were still working within FEBEM facilities. In May 2003, FEBEM created an internal investigations office, which, according to officials, has improved the process of verifying accusations.

The police often, but not always, appeared to have impunity in cases of torture, as in other cases of abuse. Often the police themselves were responsible for investigating charges of torture carried out by fellow police officers. The problem remained most pervasive at the state level. Long delays in the special military police courts allowed many cases of torture and lesser charges to expire due to statutes of limitations (*see* Section 1.e.).

In February, in Sao Bernardo do Campo, Sao Paulo military policeman Wilson Rossi Schilive arrested five persons for stealing his car. The five suspects, between the ages of 21 and 24, were kept in jail for 112 days and subjected regularly to torture, including the use of pliers on a woman's breasts and fingers. The suspects, who were never charged, attested that 20 military police officers participated in the torture sessions. The Sao Bernardo judiciary and military police internal affairs units began investigating the accusations. On August 13, Schilive along with 3 other military policemen, Adenislon Ramos, Ademilson Viana, and Sandro da Silva Serra, were charged with torture, temporarily imprisoned, and were awaiting trial. Two of the policemen also had been accused of torturing two other youths in February. On October 1, the four policemen had their first hearing before the Sao Bernardo do Campo 4th Criminal Court. On October 26, the five victims gave their testimony to the court.

On August 11, the public prosecutor for children and youth accused FEBEM's Raposo Tavares unit 27 of torturing youth in July by burning them with fireworks. On September 13, that office released a report on the maltreatment of unit 27 inmates with medical records confirming the use of explosives on inmates' skin. On September 16, the unit administrator, Jose Christiano Viana, was removed provisionally from his position for the maltreatment of inmates and the lack of hygiene and socio-educational activities in the facility.

There was no further information on the March 2003 case of Adenilson Felinto dos Santos, a truck driver who alleged that he was tortured by military police.

On January 19, the Sao Paulo State public prosecutor charged five civil Anti-Kidnapping Unit policemen, including Antonio Assuncao de Olim, chief of the Anti-Kidnapping Operations unit, and one police clerk with torturing Jandira de Oliveira Azevedo and Leoclecio Zubem Azevedo, a married couple, and Wagner Mauricio Moreira Belens in April 2003 in the Sapopemba neighborhood of Sao Paulo city. At the time of the couple's arrest, police physically abused them in front of their young children and then subjected the three victims to further beatings and pepper gas while in custody. On January 20, Judge Eduardo Crescenti Abdalla denied the prosecutors' request for preventive imprisonment and placed the case under judicial seal. Former Ministers of Justice Jose Carlos Dias and Miguel Reale Junior, and criminal lawyers from the Institute for the Defense of the Right to Defense (IDDD) represented the couple. On March 30, the state Public Prosecutor resubmitted charges against Olin and three of the civil policemen and requested temporary imprisonment. On June 24, Judge Abdalla rejected the prosecutor's charges and dismissed the case for insufficient evidence. The civil police internal affairs office was conducting a concurrent investigation of the case.

There was no further information available regarding the case opened by a Sao Paulo court in July 2003 against 13 military police accused of torturing two prisoners recruited by GRADI to infiltrate a criminal organization (*see* Section 1.a.).

No information was available on whether disciplinary action was taken against the civil police involved in the August 2003 Parana State case in which mechanic Carlos Ribeiro Morais was tortured for 5 hours and ordered to confess to a series of robberies.

In August 2003, Chan Kim Chang, a naturalized Brazilian citizen, was arrested at Rio de Janeiro's international airport for failing to declare the $30,550 in his possession. While in police custody, Chang was beaten severely and later died. Six police officers were arrested but freed pending trial. In December, 9 of the 11 persons accused of torturing and killing Chang were convicted; sentences ranged from 13 to

18 years in prison. Everson Azevedo Motta, the penitentiary police officer who beat Chang, received the highest sentence of 18 years. Ex-penitentiary director Luiz Gustavo Matias Silva and penitentiary police officer Denis Goncalves were acquitted due to a lack of evidence.

There were no reported developments and none were expected in the investigation of the 11 police officers accused of the 2002 torture of Osmarilton Meneses dos Santos in Bahia.

In some cases, sexual orientation or gender identity may have played a role in cases of torture and cruel treatment (*see* Section 5). NGOs confirmed that police committed abuse and extortion directed against transvestite prostitutes in the cities of Rio de Janeiro, Belo Horizonte, and Salvador.

Prison conditions throughout the country often were poor or extremely harsh and life threatening. Penal authorities in those states with the largest prison populations frequently did not separate juveniles from adults or hold petty offenders separately from violent criminals. Prison riots were frequent and often violent. Discipline was difficult to maintain under such conditions, and prison officials often resorted to brutal treatment, including torture. Harsh or dangerous working conditions, official negligence, poor sanitary conditions, abuse and mistreatment by guards, and a lack of medical care led to a number of deaths in prisons (*see* Section 1.a.). The poor working conditions and low pay for prison guards also encouraged corruption.

Severe overcrowding in prisons and police detention centers was prevalent and was worst in the states with the largest prison populations. According to the Ministry of Justice, between January and June, there were 331,547 prisoners in a system designed to hold 108,953. Construction of new penitentiaries continued but was inadequate to alleviate overcrowding.

Prisons generally did not provide adequate protection against violence inflicted by other inmates. Although there was no official count, numerous prison riots and rebellions occurred during the year, many of which left inmates injured or dead. The Sao Paulo secretary of prison administration reported that there were 29 deaths in his system during the year, compared with 27 for all of 2003.

CAJE, a juvenile detention center in Brasilia, Federal District, held 376 youths in a facility designed to hold 196 and employed 15 guards. The staff included a doctor, a nurse, a psychiatrist, 12 psychologists, 22 social assistants, and some teachers. Of the total number of detainees, 26 were females held in separate living quarters. CAJE was constructing additional facilities to accommodate detainees. Local critics reported that CAJE suffered from inadequate space, understaffing, violence, and unsatisfactory treatment of inmates with mental disabilities.

Prisoners were subjected to unhealthy conditions. Scabies and tuberculosis diseases uncommon in the general population—were widespread in Sao Paulo prisons, as were HIV/AIDS, hepatitis, and even leprosy. According to local NGOs, infectious diseases, such as AIDS and tuberculosis, have reached endemic levels among prisoners. The HIV/AIDS infection rate among prisoners was between 20 and 30 percent; infected prisoners were eligible to receive antiretroviral cocktails. Early in the year, the Ministry of Health reported that skin infections, respiratory problems, HIV/AIDS, sexually transmitted diseases, and tuberculosis were commonly found among prisoners. The Catholic Church's Ministry for the Incarcerated in Sao Paulo reported that, in several of the city's police jails, almost 90 percent of the detainees suffered from skin or respiratory illnesses, and prison administration officials reported that many prisoners who transferred into the Sao Paulo penitentiary system were infected in police jails. Denial of first aid and other medical care sometimes was used as a form of punishment.

Overcrowding was an even greater problem in police jails than in penitentiaries. Due to pretrial delays and overcrowding in state penitentiaries, some 72,301 prisoners were held in local lockups, awaiting either trial or transfer to state penitentiaries. The situation was critical in Sao Paulo city's 52 police jails, which had a capacity for 1,332 prisoners but, as of October, held 9,575. The Sao Paulo State secretary for public security continued a 10-year program to close all of the city's jails by 2005; thereafter, all detainees would be transferred to the state penitentiary system.

On January 27, 21-year-old student Romulo Batista de Mello died while in police custody for driving a stolen car. Claiming that Mello's behavior was violent, the police sedated him before taking him to a holding area, where he died 6 days later. The police maintained that Batista de Mello caused his own death by hitting his head against his cell wall. However, the Rio de Janeiro State secretary for public security acknowledged that Mello had been beaten. In April, the Rio de Janeiro state prosecutor brought charges of torture against three police officers and a charge

of negligence against a doctor involved in the case, and the case remained pending at year's end.

In April, rioting prisoners at the Urso Branco prison in Rondonia State killed 14 inmates. Urso Branco, with a capacity of 350 prisoners, held approximately 1,300 at the time of the riot. In 2002, the Inter-American Commission on Human Rights (IACHR) had authorized precautionary measures to protect detainees at Urso Branco and resolved that the Government act to assure respect for the lives and physical integrity of the detainees. On April 22, the Inter-American Court of Human Rights ordered the Government to bring conditions in the prison to international standards, investigate past incidents, and submit a report to the Court by May 3. No information on the Government's response was available.

In June, a prisoner riot in the Casa de Custodia de Benfica prison in the city of Rio de Janeiro left 18 prisoners dead. The prison, with a capacity of 1,400 prisoners, held 6,000 at the time.

An August riot in the Julio de Castilhas Prison in the interior of Rio Grande do Sul State left six dead and an unknown number injured, including the prison's administrator. The prison had a holding capacity of 40 inmates but held 90 when the incident occurred.

Overcrowding, poor conditions, prisoner riots, drug abuse, and accusations of sexual abuse and torture continued to pervade Sao Paulo's FEBEM juvenile detention centers. Between January and November, four adolescents died from violence at FEBEM facilities. The Sao Paulo FEBEM system had more than 6,000 inmates and accounted for more than half of the country's youth prison population. FEBEM detention center employees went on strike from July 2 until September 15, leaving facilities unsecured.

The Franco da Rocha units 30 and 31, which a state judge ordered closed in 2002, were closed on December 30, 2003, and their 250 prisoners were transferred to the Tatuape unit of FEBEM. The transferees reported being tortured upon arrival in Tatuape. They told visiting human rights activists and community custodians of spending days sitting still and facing a wall without being allowed to speak. Human rights activists claimed that the same FEBEM authorities accused of torture in the Franco da Rocha facility also were transferred to Tatuape. The Association of Mothers of Prisoners reported difficulty in gaining access to the Tatuape facility. In January, the Public Prosecutor for Children and Youth started an investigation of the accusations.

In July, the human rights NGO Conectas won a suit against the Tatuape facility for not complying with municipal building codes, and the court ordered Sao Paulo State to bring the unit up to municipal fire and construction codes within 90 days. Conectas brought the case to court after the death of an inmate in July 2003. FEBEM filed for a suspension of the court order until a judgment was made based on the action, Conectas counter-sued, and both cases were pending at year's end.

On January 22, two inmates of FEBEM's Vila Maria unit were shot and killed while trying to escape. The killings remained under investigation. Escapes from FEBEM facilities increased significantly, with several episodes of more than 100 inmates escaping at a time. The Sao Paulo Department for the Execution of Justice for Children and Youth started administrative procedures to determine the involvement of public employees. The Sao Paulo State Treasury Forum began a civil action to determine the indemnity and responsibility of the state in the case.

In June, 28 inmates of the Ribeirao Preto FEBEM unit were transferred to a state penitentiary for causing revolts, arson, and conspiracy. The Human Rights Commission of the Brazilian Bar Association and the state public prosecutor's office immediately requested that the youth be transferred back to the FEBEM system due to their age and the failure to follow proper procedures for such a transfer. A state judge granted the request, and the inmates returned to FEBEM within 3 days.

On August 13, a Raposo Tavares Unit 37 inmate was found dead. Although the FEBEM office of internal investigations reported the death as suicide, the NGO Conectas and the Association of Mothers of Prisoners accused Raposo Tavares officials of torture leading to death. The public prosecutor's office started an investigation, but no information regarding the outcome was available at year's end.

Sao Paulo State took some remedial measures. Governor Alckmin replaced FEBEM presidents twice during the year and, in August, moved FEBEM from the state's Secretariat of Education to the Secretariat of Justice. On September 16, the FEBEM administration mandated medical evaluations for inmates every 15 days and daily reports by unit administrators of any disciplinary actions taken. On October 19, the new FEBEM president, Alexandre de Moraes, announced a new internal system of unannounced inspections in all units. Previously, 5 days' notice was required before an inspection. Unrestricted access was granted to the Brazilian Bar Association's Commission on Human Rights, the president of the NGO Association

of Mothers and Friends of at-Risk Children and Youth, the president of the employees' union, community administrators, and the state councils on human rights and on children and adolescents. Other human rights organizations can either petition the FEBEM president to be added to the unrestricted access list or request authorization to visit a facility 5 days in advance.

On September 23, the directors of 10 of the most "critical" units, where maltreatment or aggression reportedly was common, were replaced. On October 14, the FEBEM president dismissed the director of unit 29 of the Franco da Rocha facility. On December 14, he dismissed the director of unit 2 and four team coordinators at the Tatuape facility for mishandling a rebellion earlier in the month. FEBEM reported that 11 employees were dismissed and 32 were suspended for using violence.

In December, a court sentenced 10 employees from the now-deactivated FEBEM Parelheiros unit for torturing 19 inmates in 2002. The employees' leader was sentenced to 15 years and 5 months in prison. This was the first sentencing of FEBEM employees for torture in Sao Paulo city.

Rio de Janeiro and Sao Paulo States provided separate prison facilities for women; elsewhere, women were held with men in some facilities. Male officers served in women's prisons, and abuse and extortion of sexual favors occurred. In Rio de Janeiro State, there were only two police districts in which women were held in gender-segregated, short-term jail facilities.

In March, the Association of Judges for Democracy reported that incarcerated women had fewer rights in Sao Paulo prisons than men. Women's institutions tended to be more overcrowded than men's and received less attention from prison administrators. Approximately 65 percent of female prisoners were held in severely overcrowded conditions and did not have jobs, education, and health care as required by law.

In May, female prisoners in Santos rebelled against poor conditions. The Santos prison was designed to hold 60 inmates but held 116. An August uprising to protest overcrowding at the women's penitentiary in Carandiru left one inmate dead. The penitentiary, which had an official capacity for 450 prisoners, held 681.

Authorities attempted to hold pretrial detainees separately from convicted prisoners; however, due to prison overcrowding, pretrial detention facilities often also held convicted criminals.

It is government policy to permit prison visits by independent human rights observers, and state prison authorities generally followed this policy in practice. Federal officials in the Ministry of Justice responsible for penal matters offered full cooperation to Amnesty International, which reported no significant problems in gaining access to state-run prison facilities. Global Justice reported that the level of access to prison facilities varied from state to state. In Sao Paulo and Rio de Janeiro, Global Justice found it difficult to gain access. Sao Paulo also employed committees of community leaders to monitor prison conditions. Sao Paulo, like Parana and Rio Grande do Sul states, also had a prison ombudsman program.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, police continued, at times, to arrest and detain persons arbitrarily. The Constitution limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority.

The federal police force is very small, primarily investigative, and plays a minor role in routine law enforcement. Most police forces fall under the control of the states, where they are divided into two distinct units. The civil police are plainclothes officers with an investigative role, while the military police are the uniformed officers charged with maintaining order. U.N. Special Rapporteur Jahangir found that, although each state police force was monitored by its own internal affairs division, the units—subordinated to the chain of command and bound by ties of esprit de corps—often delayed applying administrative sanctions. This situation undermined efforts to address police abuses and contributed to a climate of impunity. Although the individual state governments control their respective military police forces, the Constitution provides that they can be called into active military service in the event of an emergency, and they maintained some military characteristics and privileges, including a separate judicial system (*see* Section 1.e.).

A November report by the human rights NGO Centro Santo Dias and the Sao Paulo State Council in Defense of Human Rights (CONDEPE) stated that one in every four reported cases of police abuse involved extortion or flagrant scheming, in particular, to procure the release of a detainee. According to victims, police generally requested between $1,500 (4,200 reais) and $3,000 (8,400 reais) to release a prisoner. Other cases mentioned in the report include physical abuse, threats, and intimidation by the police when giving testimony. On November 28, the head of the

Sao Paulo military police internal affairs unit, Colonel Paulo Maximo, announced that his office had opened preliminary investigations of the cases contained in the report.

With the exception of arrests of suspects caught in the act, arrests may be made only with a warrant. The use of force during an arrest is prohibited unless the suspect attempts to escape or resists arrest. Suspects must be advised of their rights at the time of the arrest or before being taken into custody for interrogation.

In general, warrants were based on sufficient evidence and issued by a judge; however, the NGOs National Movement for Human Rights and Global Justice reported that, at times, warrants were issued arbitrarily, depending on the judge and the region of the country. Global Justice also reported that, in Rio de Janeiro and Sao Paulo States, many judges issued "collective" search and arrest warrants that permitted the police to search entire neighborhoods in poor areas.

Human rights observers alleged that civil and uniformed police regularly detained persons illegally to extort money or favors. In May, two military police officers from Itaquaquecetuba outside of Sao Paulo city were arrested for kidnapping an 86-year-old woman and keeping her in captivity for more than 20 days. Police believed that officers Alexandre Fonseca and Jose Aparecido da Conceicao led a kidnapping ring and were involved in other kidnappings in the metropolitan area.

The authorities generally respected the constitutional provision for a judicial determination of the legality of detention, although poor record keeping resulted in the detention of many inmates beyond their sentences. The law permits provisional detention for up to 5 days under specified conditions during a police investigation, but a judge may extend this period.

In criminal cases, defendants arrested in the act of committing a crime must be charged within 30 days of their arrest. Other defendants must be charged within 45 days, although this period may be extended. In practice, the backlog in the courts almost always resulted in extending the period for charging defendants.

Bail was available for most crimes, and defendants facing charges on all but the most serious crimes had the right to a bail hearing.

In general, prison authorities allowed detainees prompt access to family members or a lawyer, but there were cases when detainees—typically poor and uneducated—were held longer than the provisional period.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary and the Government generally respected this provision in practice; however, the judiciary was underfunded, inefficient, and often subject to intimidation and political and economic influences—particularly at the state level. Judicial officials sometimes were poorly trained and subject to corruption. In many instances, poorer, less educated citizens made only limited use of the appeals process.

Low pay and exacting competitive examinations that could eliminate as many as 90 percent of the applicants made it difficult to fill judicial vacancies. The law requires that trials be held within a set period of time from the date of the crime; however, due to the nationwide backlog in state and federal cases, courts frequently dismissed old cases unheard. This practice reportedly encouraged corrupt judges to delay certain cases purposely so that they could eventually be dismissed.

Federal judge Joao Carlos da Rocha Mattos, arrested in November 2003 in Sao Paulo, remained in a federal police jail at year's end for his alleged involvement in corruption that involved the selling of judicial sentences; two other federal judges, brothers Casem Mazloum and Ali Mazloum, were removed from the bench in December 2003. On December 17, Rocha Mattos and Cassem Mazloum were convicted of conspiracy in connection with the charges. Eight additional suspects, including six active and retired Federal Police officials and two businessmen, were also convicted of conspiracy; they received sentences ranging from community service to 3 years' imprisonment. Conspiracy charges were dropped against Ali Mazloum, but, at year's end, he and the other defendants still faced trial on corruption, abuse of power, identity fraud, and embezzlement charges.

At year's end, 115 senior judges were under investigation nationwide on a variety of charges.

The judicial system ranges from courts of first instance and appeals to its apex, the Federal Supreme Court. States organize their own judicial systems within the federal system and must adhere to the basic principles laid out in the Constitution. Specialized courts dealt with police, military, labor, election, juvenile, and family matters.

After an arrest, the chief judicial officer reviews the case, determines whether it should proceed, and, if so, assigns it to a state prosecutor who decides whether to issue an indictment.

The right to a fair public trial as provided by law generally was respected in practice, although in some regions—particularly in rural areas—the judiciary generally was less professionally capable and more subject to external influences. Similarly, when cases involved gunmen hired by landowners to kill land activists or rural union activists, local police often were less diligent in investigating, prosecutors were reluctant to initiate proceedings, and judges found reasons to delay. A constitutional amendment passed in December seeks to remedy this shortcoming by granting federal prosecutors authority to take over human rights cases from state prosecutors (*see* Section 1.a.).

The Constitution recognizes the competence of a jury to hear cases involving capital crimes. Judges try those accused of lesser crimes.

The Constitution provides for the right to counsel; however, the Ministry of Justice estimated that 85 percent of prisoners could not afford an attorney. In such cases, the court must provide one at public expense. The law requires courts to appoint private attorneys to represent poor defendants when public defenders are unavailable; however, appointed private attorneys often did not provide adequate representation.

There is no presumption of innocence. Defendants have the right to appeal all convictions to state superior courts. They also have the right to appeal state court decisions to both the Federal Supreme Court on constitutional grounds and to the federal Superior Justice Court. Any defendant sentenced to 20 or more years in prison has the right to an automatic retrial.

The law provides civilian courts with jurisdiction over cases in which uniformed police officers stand accused of "willful crimes against life," primarily murder (*see* Section 1.a.). However, in all but the most egregious cases, police tribunals decided whether or not the killing was willful. As a result, the civilian courts received very few case referrals involving police killings. The average case took 8 years to reach a definitive decision. At the appellate court level, a large backlog of cases hindered the courts' ability to ensure fair and expeditious trials.

In December, a constitutional amendment came into force with a wide array of judicial reforms. It streamlines procedures in the Supreme Federal Court and some lower courts, strengthens human rights protections, introduces structural and professional court reforms, and creates oversight councils to hear complaints and issues sanctions against judges and public prosecutors at the state and federal levels.

There continued to be numerous credible reports of state police officials' involvement in intimidation and killing of witnesses involved in testifying against police officials (*see* Section 1.a.).

The National Movement for Human Rights noted that courts convicted a much higher percentage of Afro-Brazilian defendants than they did whites (*see* Section 5).

The Constitution mandates that special police courts exercise jurisdiction over state uniformed (military) police (except those charged with homicide). Most police officers accused of crimes appeared before these courts (which are separate from the courts-martial of the armed forces, except for the final appeals court). There were few convictions in these courts. Human rights groups noted that police were reluctant to investigate fellow officers and exploited statutes of limitation by stalling.

There were no reports of political prisoners, although the MST claimed that its members jailed in connection with land disputes were political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions; however, there were reports that the police conducted searches without a warrant (*see* Section 1.c.). Wiretaps authorized by judicial authority were permitted. The inviolability of private correspondence generally was respected.

In April, the Federal Supreme Court halted proceedings in the illegal wiretapping case of Senator Antonio Carlos Magalhaes. In the same decision, the court sent the cases of three alleged accomplices to be heard before a federal judge in Bahia State. Magalhaes allegedly had ordered the illegal wiretapping of hundreds of individuals and political opponents in his home state of Bahia.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice and did not restrict academic freedom.

Privately owned newspapers, magazines, and a growing number of online electronic publications vigorously reported and commented on government performance. Both the print and broadcast media routinely discussed controversial social and political issues and engaged in investigative reporting.

The independent print and broadcast media were active and expressed a wide variety of views without restriction. Main media outlets included approximately 79

newspapers, 75 radio stations, 71 news websites, 40 magazines, 20 national television stations, and 16 news agencies. A minimal portion of the media was government-owned, including Agencia Brasil, Televisao Educativa, Agencia Camara, and Agencia Senado; however, local and state level politicians, or their families or proxies, often owned local media outlets.

Foreign publications were distributed widely; prior review of films, plays, and radio and television programming only was used to determine a suitable viewing age.

In May, President Lula attempted to revoke the visa of New York Times journalist William Larry Rohter, Jr., whose reporting had personally offended the President. After substantial media coverage, strong public criticism, and a judicial order delaying deportation, President Lula withdrew his request for visa revocation, and Rohter continued to report from the country.

Journalists enjoyed no protection from violence, some of which may have been specifically motivated by their professional activities. According to the NGO Journalists Without Borders, two local journalists were killed during the year. On April 20, four gunmen on motorcycles shot radio host Samuel Roma outside his home in Coronel Sapucaia, in the State of Mato Grosso do Sul on the border with Paraguay. Roma, a well-known journalist who had frequently denounced drug trafficking and crime in the area, had called for police to investigate recent killings and claimed to possess information proving government officials' involvement in organized crime. Paraguayan police arrested three men suspected of killing Roma and handed them over to Brazilian police.

On April 24, in Timbaiba, Pernambuco State, two unidentified gunmen ambushed, shot, and killed journalist Jose Carlos Araujo of Radio Timbauba FM. Four days later police captured Elton Jonas Goncalves de Oliveira, who confessed to the killing. Araujo hosted a local radio talk show and had exposed the involvement of several well-known local figures suspected of murder in the region.

In June, a court sentenced Renato Santos Lira to 32 years in prison for the July 2003 killing of photographer Luis Antonio da Costa. The trial of Lira's alleged accomplice in the killing remained pending at year's end.

On July 11, in Santana do Ipanema, Alagoas State, a man shot and killed radio owner and host Jorge Lourenco dos Santos in front of his home. Santos owned a radio station in Criativa FM, frequently criticized local politicians and businessmen on his show, and was active in local politics. Local press and police reported that he had received death threats and was the target of two previous attempted killings. A police investigation remained pending at year's end.

Four of the seven persons, including alleged ringleader Elias Maluco, who were accused of killing prominent Rio de Janeiro television journalist Tim Lopes in 2002, lost their preliminary appeal and remained in jail awaiting trial. Indictments were issued for the three who did not appeal.

The trial of police officers Hercules Araujo Agostinho and Celio de Souza for the 2002 killing of Savio Brandao, owner of the Folha do Estado newspaper, was held in December 2003 in Cuiaba, Matto Grosso State. Former military police corporal Agostinho was sentenced to 18 years in prison for the shooting. Souza, whose case was delayed due to complications associated with a defense witness located overseas, remained in jail at year's end.

In December 2003, a judge from the Second Criminal Court of Salvador, Bahia issued an order of habeas corpus, freeing former police officer Mozart Costga Brasil, who had been sentenced in September 2003 to 18 years in prison for the 1998 killing of Manoel Leal de Oliveira, publisher and editor of the Itabuna weekly A Regiao. A judgment on the legality of the order has not been issued.

The Government did not impose restrictions on the use of the Internet; however, federal and state police monitored the Internet to detect online recruitment by sex traffickers and the activities of hate groups.

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

In May, students from the Sao Paulo Technical College clashed with military police during student demonstrations in downtown Sao Paulo. Police injured 15 students with rubber bullets and clubs while attempting to maintain public order and reopen a blocked roadway.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Approximately three-quarters of the population identified themselves as Roman Catholic, and the Government maintained a Concordat with the Vatican. There is no official state religion. There were no registration requirements for religions or religious groups, and all faiths

were free to establish places of worship, train clergy, and proselytize. The Government controlled entry into indigenous lands and required missionary groups to seek permission from the National Indian Foundation (FUNAI).

There were reports of anti-Semitic graffiti, harassment, vandalism, and threats via e-mail and telephone. Six students at Rio de Janeiro Catholic University were charged with anti-Semitism for spraying anti-Semitic graffiti in the university's restroom.

On October 11, the Congregation Beth Jacob synagogue in Campinas, Sao Paulo, was defaced with anti-Semitic graffiti, including swastikas and the phrase, in English, "kill all jewish." The Regional Special Action Group for the Prevention and Repression of Organized Crime, the Sao Paulo Civil Police, and the Civil Police Office for Crimes of Intolerance were investigating the crime at year's end, and the Campinas city council passed a motion denouncing the act.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice, although there were restrictions on entry into protected indigenous areas, and a parent is not allowed to leave the country with children under the age of 18 without the permission of the other parent.

The Constitution prohibits forced exile as punishment, and it was not practiced.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voting is secret and mandatory for all literate citizens aged 18 to 70, except for military conscripts, who may not vote.

In the October 2002 national elections, PT candidate Luiz Inacio Lula da Silva won election to a 4-year-term with more than 61 percent of the vote in the second-round runoff. In October, nationwide municipal elections, held without any serious incidents, chose mayors and city councils in each of the country's 5,563 municipalities.

There were 7 major political parties with 25 or more seats in the national congress. At year's end, the ruling PT had 91 of the 513 seats in the Chamber of Deputies and 13 of the 81 Senate seats, but there were approximately 381 Deputies in the PT coalition that supported Lula's government.

Ethics and ethical behavior among public figures received heightened attention during both the Cardoso and Lula administrations. While corruption in the public sector has not been eliminated, implementation of new legislation provided greater public spotlight and scrutiny. Soon after a Code of Conduct for Senior Public Administration was promulgated in 2000, the Commission for Public Ethics was created to promote high standards of public behavior among both elected and appointed officials. Upon appointment or election, officials submit a confidential information declaration to the Commission listing assets, other sources of income, and possible activities or areas of conflict of interest.

The law provides for public access to unclassified government information, upon application to the Commission for Public Ethics; however, the bureaucratic process often slowed release of such information.

Women enjoyed full political rights and increasingly were active in politics and government. There were 9 women in the 81-member Senate and 44 women in the 513-seat Chamber of Deputies. There were four women in the cabinet and one woman on the Supreme Court.

There were three members of minorities in the cabinet and one on the Supreme Court. There were 27 Afro-Brazilians in Congress.

Diverse ethnic and racial groups, including indigenous people, were free to participate politically.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Federal officials usually were cooperative and responsive to their views. Federal and state officials in many cases sought the aid and cooperation of NGOs in addressing human rights problems; however, human rights monitors occasionally were threatened and harassed for their efforts to identify and take action against human rights abusers, particularly members of the state police forces.

After the IACHR's August 2003 request for the Government to provide police protection for three human rights activists in Parana State who had received death threats in 2003, two of the activists were given minimal protection, and one left Parana State for several months. Representatives from the human rights NGO Centro Santo Dias had reported continuing military police involvement in torture Parana's prisons. The death threats succeeded in discouraging additional human rights activists in Parana from reporting such abuses.

Eight states had police ombudsmen (*see* Section 1.c.); however, some NGOs and human rights observers questioned their independence and effectiveness. U.N. Special Rapporteur Jahangir noted that ombudsmen's accomplishments varied dramatically, depending on such factors as funding and outside political pressure.

The Justice Ministry's Special Secretariat for Human Rights administered programs to reduce violence among the poor, train police officials in human rights practices, and combat discrimination against homosexuals, blacks, women, children, indigenous people, the elderly, and persons with disabilities.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of sex, race, age, religion, or nationality; however, discrimination against women, Afro-Brazilians, homosexuals, and indigenous people continued. The law provides prison penalties and fines for racist acts, including use of pejorative terms for ethnic or racial groups, use of the swastika, and acts of discrimination based on sex, religion, age, or ethnic origin.

Women.—The most pervasive violations of women's rights involved sexual and domestic violence, which remained both widespread and underreported. According to a survey conducted by the World Society for Victims and used by the Senate in its 2004 Report on the Condition of Women, 23 percent of women were subjected to domestic violence; in about 70 percent of the occurrences, the aggressor was the victim's husband or companion; 40 percent of the cases resulted in serious injuries, but in only 2 percent of the complaints was the aggressor actually punished.

The Government acted to combat violence against women. Each state secretariat for public security operated women's stations ("delegacias da mulher") to address crimes against women; however, the quality of services provided varied widely, and availability was particularly limited in isolated areas.

The stations were intended to provide the following services for victims of domestic violence: Psychological counseling, temporary shelter, hospital treatment for rape victims (including treatment for HIV and other sexually transmitted diseases), and initiation of criminal cases by investigating and forwarding evidence to the courts. According to the Ministry of Justice, many of the women's stations fell far short of standards. There were approximately 307 stations for 5,563 municipalities; 40 percent were in Sao Paulo State and 13 percent in Minas Gerais State. The States of Acre, Alagoas, Ceara, Roraima, and the Federal District each had only one such office.

The Government continued to operate a toll-free hotline to address complaints of violence against women. The law requires health facilities to contact the police regarding cases in which a woman was harmed physically, sexually, or psychologically. A law enacted in June added domestic violence to the Penal Code and made it a crime punishable by 6 to 12 months' imprisonment. According to government officials and NGO workers, the majority of criminal complaints regarding domestic violence were suspended without a conclusion.

Rape, including spousal rape, is a crime punishable by 8 to 10 years' imprisonment; however, men who killed, sexually assaulted, or committed other crimes against women were unlikely to be brought to trial. The Penal Code allows a convicted rapist to escape punishment if he marries his victim or if the victim marries a third person and does not request or require an investigation or criminal proceedings.

Adult prostitution is legal; however, various associated activities, such as operating a prostitution establishment, are illegal. Local authorities in Rio de Janeiro launched campaigns against sex tourism and arrested several persons involved in

promoting prostitution during the year. Rio de Janeiro State passed a law requiring certain businesses to display signs listing the penalties for having intercourse with a minor. Women's groups reported that prostitutes encountered discrimination when seeking free medical care. Trafficking of women for the purpose of prostitution was a serious problem (*see* Section 5, Trafficking).

Sexual harassment is a criminal offense, punishable by 1 to 2 years in jail. The law encompasses sexual advances in the workplace or in educational institutions, between family members, and between service providers or clients. In the workplace, it applies only in hierarchical situations, where the harasser is of higher rank or position than the victim.

Women enjoy the same legal rights as men. A cabinet-level office, the Secretary for Women's Affairs, who oversees the Special Secretariat for Women's Affairs, has responsibility to ensure the legal rights of women. The Constitution prohibits discrimination based on gender in employment and wages; however, there were significant wage disparities between men and women. In June, the Chamber of Deputies' Commission on the Feminization of Poverty reported that women generally earned 30 percent less than men and that, in households headed by single woman, the woman worker earned less than half the minimum wage. According to the Brazilian Institute of Geography and Statistics (IBGE), white Brazilian women earned on average 40 percent less than white men, and Afro-Brazilian women received 60 percent less earnings than white men. A federal government quota system requires that at least 20 percent of new federal government hires be women.

The Maternity Leave Law provides 120 days of paid maternity leave to women and 7 days to men. The law also prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates; however, some employers sought sterilization certificates from female job applicants or tried to avoid hiring women of childbearing age. Violations of the law are punishable by jail terms for employers of 1 to 2 years, while the company may be fined 10 times the salary of its highest-paid employee.

Active women's rights groups included: The NGO Feminist Center for Studies and Assistance, which focused on combating gender and racial discrimination by conducting studies and promoting advocacy activities to influence public policy affecting women, and the Institute Patricia Galvao, a separate NGO, which informed the public about women's rights and violence against women.

Children.—The Government continued its commitment to children's rights and welfare, but millions of children suffered from the poverty afflicting their families, worked to survive, and failed to get an education.

The law provides that children age 6 and under receive free day-care and preschool. Schooling was free and compulsory between the ages of 7 and 14 and free, but not compulsory, for adolescents between the ages of 15 and 17 who did not attend primary school. Schooling was available in all parts of the country, although not every school had space for every child that wanted to attend. In 2002, IBGE reported a 97 percent school enrollment rate for children ages 7 to 14. Girls and boys attended school in comparable numbers.

According to Human Rights Watch, girls often lacked basic medical care and had fewer opportunities than boys to receive exercise, recreation, and participate in other activities.

The law prohibits subjecting any child or adolescent to any form of negligence, discrimination, exploitation, violence, cruelty, or oppression. Allegations of abuse of minors and prosecution of crimes against children were not pursued adequately or aggressively.

In April, six councilmen and a municipal employee in Porto Ferreira in Sao Paulo State were found guilty and sentenced to prison for rape, corruption of minors, and conspiracy. All had been arrested in August 2003 on charges of participating in group sexual activities at barbecues involving elected officials, municipal employees, businessmen, and local girls between the ages of 11 and 16. Although serving a 42-year prison sentence, convicted city councilman Luiz Cesar Lanzoni was reelected to the city council in the October municipal elections.

In July, the military prosecutor's office of Rio Grande do Sul accused a military policeman of rape of a minor and 13 other military policemen of sexual abuse committed against minors. The acts allegedly were committed in police cars in 2001 and 2003 in the town of Triunfro. The inquiry began on February 11, and, after receiving threats, the minor entered the Rio Grande do Sul State protection program. The head of the military police internal affairs office reported that the policemen are expected to be tried and dismissed.

Trafficking in children for the purpose of prostitution was a serious problem (*see* Section 5, Trafficking).

Child labor remained a problem (*see* Section 6.d.).

In 2003, the University of Sao Paulo Research Institute Foundation (FIPE) estimated that 10,400 homeless persons lived in Sao Paulo city, of whom 2 percent were under the age of 17. The city of Rio de Janeiro, in cooperation with NGOs, operated 57 shelters and group homes for street children and has created an entity dedicated to street children called FUNDO RIO. The Sao Paulo city government runs several programs for street children, including a number of shelters for minors and the Sentinel Program, which identifies at-risk youth and provides social services, counseling, and shelter.

Trafficking in Persons.—The law prohibits the transport of persons for illicit reasons within and outside the country; however, persons were trafficked from, within, and, to a lesser extent, to the country.

The Penal Code establishes a prison sentence of 3 to 8 years for transporting women in or out of the country for the purposes of prostitution. The Statute on Children and Adolescents requires the permission or presence of both parents for children to leave the country; it also prohibits children from leaving the country with a foreigner unless the authorities grant prior approval. However, laws on trafficking for sexual exploitation were difficult to enforce, particularly in relation to domestic trafficking.

The law does not specifically prohibit trafficking of men or the internal trafficking of women, although Congress was considering legislation to criminalize all forms of trafficking.

The Penal Code provides that traffickers of women may be fined and sentenced to prison terms of 1 to 3 years, which may be increased if the victim is under 18, a senior citizen, pregnant, a person with disabilities, or a member of an indigenous group.

Anti-trafficking laws generally were enforced, but violators rarely received criminal penalties because of the limitations of the statutes. Although complete data was not available, officials estimated that 50 to 100 labor trafficking defendants were prosecuted in 2003, however, many of those proceedings had not reached conclusion by year's end. According to the International Labor Organization (ILO), only 68 cases of trafficking of women for prostitution have been brought to the attention of federal authorities over the past 3 years. During the last quarter of the year, however, the country had its first three cases (one in Goiania and two in Fortaleza) of prison sentences for persons convicted of trafficking women abroad. Prison sentences ranged from 8 to 30 years. These cases received widespread media attention.

In October, police broke up a German-based sex trafficking ring in Fortaleza, Ceara, that offered European tourists sex with minors and sent women to Europe for prostitution through an on-line prostitution ordering service. The website, which federal police believed was hosted overseas, allowed men to select Brazilian women with desired characteristics in sex package tours priced from $2,540 to $3,810. The woman selected would meet the tourist in the country or would fly to Europe. The Federal Police arrested three Germans, including the owner and a recruiter, four Italian tourists, and five Brazilian employees. Police confiscated approximately 300 explicit photos of women and girls under the age of 19 and closed down the service. Those arrested were awaiting prosecution at year's end.

In October, the Secretariat for Human Rights in the Ministry of Justice launched a nationwide anti-trafficking in persons publicity campaign in Goiania, Goias, to prevent the trafficking of women for sexual exploitation abroad. Approximately 60 percent of women trafficked abroad came from Goias State. The program was cosponsored by the U.N. Office of Drugs and Crime (UNODC) and the Government of Portugal. Female passport recipients receive a brochure that states "first they take your passport, then your freedom." The campaign includes radio advertisements and large warning signs in airports in Sao Paulo, Rio de Janeiro, Brasilia, Recife, Fortaleza, and Goiania. Police officers, judges, and foreign consulates in the country received training under this program.

In May, the Sao Paulo State Secretary of Justice inaugurated the Sao Paulo Office for the Prevention of Trafficking in Persons. This office conducted public education campaigns, assisted victims of human trafficking and sexual exploitation, and referred individual trafficking cases to the federal police and state attorneys. The office, the first of its kind in the country, was expected to open a center at the Sao Paulo international airport to assist victims who return to the country after being trafficked abroad.

On October 28, the Brasilia Federal District Prosecutor charged Benicio Tavares, then-Speaker of the Federal District's Legislative Chamber and president of the NGO Handicapped Association of Brasilia, with forced prostitution and the sexual exploitation of four minors. The Prosecutor charged that, on September 17, Tavares

took part in a sex tourism boat trip on the Amazon River. Victims claimed that Tavares paid them approximately $179 (500 reais). The case was still being investigated by the prosecutor's office at year's end, although Tavares enjoys legislative immunity and cannot be tried in a common court. Separately, the District Assembly's Ethics Committee chose not to open an inquiry into the case that could have resulted in Tavares' expulsion from the assembly. At year's end, the highest criminal court in the Federal District was considering whether to hear the case against Tavares.

Government authorities responsible for combating trafficking included various agencies of the Ministry of Justice (including the Federal Police), the National Human Rights Secretariat, the Ministry of Labor and Employment, the Ministry of Tourism, and the Ministry of Social Assistance. The Federal Highway Police were responsible for checking documents and monitoring movement along highways and roads. In a limited number of cases, they were involved in apprehending suspected traffickers. Federal and state police monitored the Internet to detect on-line recruitment by sex traffickers.

Police officers reported difficulty in arresting traffickers because of the need to apprehend them in the act of traveling with the victims. In addition, most women who left the country with traffickers did so willingly. Fear of reprisals also kept victims from seeking police intervention or from testifying against traffickers. As a result, few trials involving traffickers resulted in convictions.

The country assisted with investigations of trafficking in Italy, Spain, Portugal, Japan, and the United States. A joint investigation between authorities in Goias State and Spain resulted in several arrests in Goias and the liberation of 24 women (including 4 from Goias) held as sex slaves in Valencia.

Although comprehensive government statistics on the problem were unavailable, authorities estimated that thousands of women and adolescents were trafficked, both domestically and internationally, for commercial sexual exploitation. NGOs estimated that some 75,000 women and girls were engaged in prostitution in neighboring South American countries, the United States, and Western Europe, many of them trafficked.

Internal trafficking of rural workers into forced labor schemes was a serious problem, while trafficking from rural to urban areas occurred to a lesser extent. Union leaders claimed that nearly all persons working as forced laborers had been trafficked by labor recruiters (*see* Section 6.c.). Labor inspectors found a small number of persons from other countries trafficked to work in urban sweatshops.

According to the CECRIA, patterns of sexual exploitation of children corresponded to the distinct economic and social profiles of the country's regions. In the Amazon region, sexual exploitation of children took place in brothels that catered to mining settlements. In large urban centers, girls who left home to escape abuse or sexual exploitation often prostituted themselves on the streets to survive. In the cities along the northeast coast, sexual tourism exploiting children was prevalent and involved networks of travel agents, hotel workers, taxi drivers, and others who actively recruited children and even trafficked them outside the country.

Child prostitution also developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. NGOs estimated that approximately 500,000 children were involved in prostitution.

In July, Congress approved a report recommending that more than 200 persons, including politicians, judges, business leaders, and priests, should be investigated for crimes against minors, but no action had been taken on the report by year's end. The Parliamentary Investigation Commission reported 800 complaints of child sexual abuse from January to June.

CECRIA's 2003 report on trafficking in persons for commercial sexual exploitation, which drew on police, media, and other sources, identified 241 sex trafficking routes. Internationally, Spain was the destination of most identified routes (32), followed by the Netherlands (11), Venezuela (10), Italy (9), Portugal (8), and Paraguay (7). The study also named France, Switzerland, Germany, Argentina, Chile, Japan, Israel, and Iraq as destinations for trafficking victims. The report identified the cities of Rio de Janeiro, Sao Paulo, Belem, Forteleza, Salvador, and Recife as exit points for persons trafficked to Europe. Rio de Janeiro and Sao Paulo were exit points for the United States, while victims destined for Argentina, Chile, and Paraguay passed through the city of Foz do Iguacu. Domestic routes included: From Goias State to Sao Paulo and Rio de Janeiro; from rural areas in the north and northeast to coastal cities for sexual tourism; and from small towns in the north to outposts in the Amazon region, which itinerant workers often transited. CECRIA's report also identified trafficking routes of children for sexual exploitation from the southern region of the country into Argentina and Paraguay. Domestically, trafficked agricultural workers were most often used in isolated areas of the Amazon

region in the northern part of the country; many of the most serious cases occurred in the State of Para. The report also called attention to sex trafficking in areas with major development projects.

CECRIA found that the typical sex trafficking victims were darker-skinned women between 15 and 27 years of age, but researchers also noted the presence of adolescent boys as victims, some of whom worked as transvestites. Persons who fell prey to trafficking schemes typically came from low-income families and usually had not finished high school. Traffickers often lured victims with promises of lucrative work as dancers or models in Europe; beauty contest winners were cited as common targets. Girls were recruited at clubs and modeling agencies, or through the Internet, want ads, mail-order bride schemes, and maid and au pair services. Most women who were trafficked internationally were older than 18, but younger victims were also trafficked with falsified documents.

Police officials believed that most women who were recruited by trafficking organizations understood that they were to work as prostitutes, but they did not know about working conditions and their prospective earnings. In other cases, women were told that they would work as nannies or domestics. Upon arrival, the victims' passports often were confiscated, and they were forced to prostitute themselves and live in virtual confinement. In addition to threatening physical violence, traffickers often used debt and isolation to control the victims.

Internal trafficking supplied forced labor primarily from urban to rural areas for agricultural work and for sex tourism. This typically occurred when employers recruited laborers from poor, rural towns and transported them to remote areas where escape was difficult. Workers then were obliged to toil in brutal conditions until they were able to repay inflated debts.

Trafficking in persons was linked to international networks of crime, including drugs and arms trafficking and money laundering.

There was no evidence of any institutional government complicity in the trafficking, nor was there any known evidence of individual state-level law enforcement officers engaging in, encouraging, or abetting trafficking.

Several government programs assisted victims of trafficking, although efforts often were inconsistent and underfunded. The Ministry of Social Assistance operated more than 400 centers to assist victims of sexual abuse and exploitation and domestic violence. There were no special facilities or assistance for victims abroad. NGOs in trafficking source states provided victim assistance in job training, counseling, and other community reintegration assistance. The Office of the Comprehensive Program for the Prevention of and the Fight Against Trafficking in Persons operated seven centers to provide assistance to victims of both internal and international trafficking. A wide variety of locally based NGOs worked with trafficking victims, assisting in retraining and counseling activities.

Trafficking victims were not treated as criminals; however, access to support services was limited due to a lack of government resources. No statistics were available concerning the number of victims in shelters. Police usually referred victims to centers for treatment and counseling.

No official programs encouraged victims to file civil suits or seek legal action or restitution against traffickers. The Government maintained a witness protection program, which was overseen by the NGO, Office of Legal Assistance for Grassroots Organizations, working in coordination with government authorities. Although the program operated in all states, lack of resources limited its effectiveness.

The National Human Rights Secretariat conducted anti-trafficking information campaigns. The Government continued a campaign begun in 2003 to deter international traffickers and sensitize their potential victims to the dangers. The National Secretary for Justice led the campaign, which included opening offices in four states, education and training for officials, and public awareness campaigns. In addition, the Government undertook a government-wide initiative to combat the sexual exploitation of children, which included distributing information against sex tourism and underage prostitution.

Labor organizations and NGOs continued to conduct prevention campaigns. The Pastoral Land Commission (CPT) distributed pamphlets to rural workers in areas that historically served as targets for traffickers. The pamphlets warned rural workers about the methods of traffickers and offered practical advice to avoid this situation. A number of local unions instructed laborers to register with them and the police before leaving with a labor recruiter.

Persons With Disabilities.—The Constitution contains several provisions regarding persons with disabilities, stipulating a minimum wage, educational opportunities, and access to public buildings and public transportation for them; however, groups that worked with persons with disabilities reported that state governments failed

to meet the legally mandated targets for educational opportunities and work placement. The law stipulates percentages of vacancies that businesses must reserve for persons with disabilities: 2 percent in firms with more than 100 employees; 3 percent in firms with more than 300 employees; and 5 percent in firms with more than 500 employees. Firms that achieved these percentages could gain an advantage in competing for government contracts. A federal government quota system requires that at least 5 percent of new federal government hires be persons with disabilities.

The National Council for the Rights of Handicapped Persons and the National Council for the Rights of the Elderly, both within the Special Secretariat for Human Rights, had primary responsibility for promoting the rights of persons with disabilities.

Several laws were enacted during the year to protect the rights of persons with disabilities. A March law provides persons with disabilities the right to education and free instruction for those otherwise unable to attend classes. An August law requires that public and private parking lots reserve 2 percent of parking spaces for persons with disabilities and the elderly.

The Sao Paulo State labor code requires that meeting places for more than 100 persons or other facilities for 600 persons or more provide modified entrances, bathrooms, ramps, elevators, and signs for persons with disabilities. Nonetheless, persons with disabilities in Sao Paulo State had difficulty in securing necessary accommodations.

In April, the governor of Sao Paulo State requested that the Secretary for Justice and the Protection of Citizens enforce the state law permitting seeing-eye dogs access to all public transportation after a passenger was denied access to the Sao Paulo city Metro because of her seeing-eye dog.

In August, the press reported that only 496 of the Sao Paulo city's 977 bus lines provided wheelchair-accessible buses; the mayor's office revised the previous goal of providing at least one wheelchair accessible bus on each bus line to providing such service only on major bus routes.

There were 237 psychiatric hospitals with more than 48,000 patients in the country. From March through July, the Federal Council of Psychiatry and the Brazilian Bar Association conducted an inspection of the country's psychiatric hospitals in 14 states and the Federal District to investigate cases of violence, imprisonment, torture, and death. Their report, released on August 22, concluded that psychiatric patients received inadequate medical care and that the lack of inspection procedures created a major problem. In late August, Federal Minister of Health Humberto Costa announced that he would initiate judicial action against psychiatric hospitals with inadequate health care. According to the Ministry of Health, seven hospitals provided "appalling" health care.

National/Racial/Ethnic Minorities.—Although the law prohibits racial discrimination, darker-skinned citizens, particularly Afro-Brazilians, frequently encountered discrimination. The government statistics agency, IBGE, relied on self-identification to determine the population's racial composition, using five categories: Black, brown (or mixed race), white, yellow (or Asian), and indigenous. In a 2002 IBGE national survey, approximately 6 percent of citizens declared themselves as black, and another 40 percent declared themselves as brown.

The law specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. The law also prohibits and provides jail terms for the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets.

The National Movement for Human Rights reported that victims of torture were disproportionately of African ancestry and that blacks were more likely to be convicted when brought to trial (*see* Sections 1.c. and 1.e.). Research by the Institute of Applied Economic Research noted that persons of color were five times more likely to be shot or killed in the course of a law enforcement action than were persons perceived to be white.

On January 13, members of human rights organizations in Sao Paulo held a demonstration to denounce the actions of groups who promote racial superiority and discrimination against Afro-Brazilians, Northeasterners, homosexuals, Jews, punks, and other minorities. Demonstrators also called on authorities to investigate further known racist groups such as Carecas ("Skinheads") do ABC, Carecas do Suburbio, Poder Branco ("White Power"), and Imperial Klans do Brasil. The demonstration was held where skinheads from Carecas do ABC attacked Edson Neris da Silva and Dario Pereira Neto for holding hands in 2000. Silva died from the injuries sustained during the attack.

The predominance of whites in government, business, and academia indicated that Afro-Brazilians had not attained social and economic equality and were signifi-

cantly underrepresented in professional positions and in the middle and upper classes. Sao Paulo State Deputy Sebastiao Arcanjo noted that Afro-Brazilians constituted a majority in demographic terms but a minority in terms of power. Afro-Brazilians accounted for approximately 2 percent of the executive and management positions in businesses, and the country's diplomatic corps included only six Afro-Brazilians. In June, IBGE reported that Afro-Brazilians suffered a higher rate of unemployment and earned a lower average wage than non-blacks. According to IBGE, the average monthly wage of a white wage earner was nearly double the average earned by black wage earners, a disparity that widened considerably in the upper income classes.

There was a sizeable racial education gap. According to the Ministry of Education, white Brazilians received an average of 7.1 years of schooling versus 5.3 years for Afro-Brazilians; in the Northeast region, the gap was even larger, since Afro-Brazilians received an average of 4.5 years of schooling. According to the Education Ministry, Afro-Brazilians constituted 16 percent of the university population and filled between 3 and 7 percent of the openings in the country's prestigious public universities. During the year, major public universities in the states of Sao Paulo, Rio de Janeiro, Mato Grosso, Bahia, and the Federal District of Brasilia started or continued affirmative action programs. The University of Brasilia set aside 25 percent of its first-year vacancies for self-declared students of color.

Indigenous People.—The Constitution grants the indigenous population broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, in practice, the Government did not secure these rights.

The country had an indigenous population of approximately 400,000 persons belonging to 215 "nations." The Government estimated that more than half of indigenous people lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts. The National Indian Foundation (FUNAI), the Government's agency responsible for carrying out indigenous policies, reported that indigenous people faced many problems, including disease and poor health care, loss of native culture, and recurring incursions and illegal mining and extraction activities on indigenous lands. Road construction and deforestation were also threats.

Indigenous leaders and activists complained that indigenous people had only limited participation in decisions taken by the Government affecting their land, cultures, traditions, and allocation of national resources. They also criticized the Government for devoting insufficient resources to health care, other basic services, and protection of indigenous reserves from outsiders.

The 1988 Constitution charged the Federal Government with demarcating indigenous areas within 5 years. By year's end, at least 459 of the 616 recognized indigenous areas had reached the final registration stage, 75 were in the process of demarcation, and 133 had yet to be processed. Identified indigenous territory constituted 11 percent of the national territory. A specific congressional committee had oversight responsibility for Indian Affairs.

The Constitution provides indigenous people with the exclusive beneficial use of the soil, waters, and minerals on indigenous lands but only if the Congress approves each case. The Government administered the lands but was obliged to consider the views of the affected communities regarding their development or use, and communities have the right to "participate" in the benefits gained from such use.

Nonindigenous people, who illegally exploited indigenous lands for mining, logging, and agriculture, often destroyed the environment and wildlife, spread disease, and provoked violent confrontations. FUNAI acknowledged a lack of resources to protect indigenous lands from encroachment and depended on the Federal Police—itself an understaffed and poorly equipped agency—for law enforcement on indigenous lands.

Disputes between indigenous and non-indigenous people created tension that occasionally erupted into violence. Most conflicts concerned land ownership or resource exploitation rights in which some indigenous people resorted to forceful occupation, hostage taking, and killing.

From the end of 2003 through the beginning of the year, members of the Guarani-Kaiowa tribe in the State of Mato Grosso do Sul used invasion tactics to claim demarcated land. In December 2003, tribe members occupied 14 farms near Japora and Iguatemi on the Paraguayan border to expand the Aldeia Porto Lindo reserve from 4,000 to 23,500 acres. Indigenous people took 22 hostages, including a state attorney general, during the occupation. On January 30, the Guarani-Kaiowa people reached an agreement with FUNAI and the federal Public Prosecutor to vacate 11 of the 14 invaded farms for the return of 19,500 acres to the tribes. The indigenous people were allowed to remain provisionally on three of the farms so long as they

did not hinder production. Landowners took the case to the Federal Regional Tribunal in Sao Paulo, requesting the immediate and complete return of their land. On February 3, the judge upheld the decision to limit the eviction of the occupiers and return of the land to the previous occupants and to resolve the dispute with the Guarani-Kaiowa tribe members through negotiations. Two days later, the indigenous people left most of the invaded farms, except for three that they continued to control, while allowing owners to re-enter the properties.

In early April, members of the Cinta-Larga tribe killed 29 diamond prospectors who were working illegally on an indigenous reservation. In late April, Federal Police identified 12 members of the Cinta-Larga tribe as having been involved in the killings. However, others reported that the killings were the result of a disagreement between indigenous leaders who were involved in diamond smuggling and charged the illegal prospectors "fees" for access to the reservation. FUNAI and local indigenous leaders claimed that the Indians were protecting their land against illegal invasion and that previous incursions onto their territory had gone unpunished. The Government undertook to increase monitoring of the reservation.

On the Raposa Serra do Sol reservation in Roraima State, the long-running land dispute between Indians and rice planters continued after the Supreme Court refused to overturn a lower court's order that stopped demarcation of the disputed territory. On June 30, Indians occupied a riverbank region occupied by rice cultivators. In November, FUNAI reported that area landowners used violence to intimidate indigenous supporters of demarcation, attacking members of the Macuxi tribe and demolishing several of their villages. The tension between rice farmers and Indians continued at year's end as both sides awaited a final ruling from the Supreme Court on demarcation.

No new information was available regarding the January 2003 killing of Marcos Veron, a prominent leader of a Guarani-Kaiowa indigenous nation in Mato Grosso do Sul State involved in a dispute over territory in Dourados. His nephew also was killed and many others were beaten in the same incident. Authorities indicted 27 persons and arrested 14 in connection with the killing, and the Federal Justice Minister undertook to analyze the case and make a decision on resolving the land dispute.

No new information was available and none was expected on the June 2003 killing of Caingangue leader Adilson Cardoso in Faxinalzinho, Rio Grande do Sul State.

Some universities, such as the University of Brasilia, began or maintained affirmative action programs for indigenous people.

Other Societal Abuses and Discrimination.—There was a history of societal violence against homosexuals. Although the Constitution does not prohibit discrimination based on sexual orientation, state and federal laws do prohibit such discrimination, and the federal and state governments remained committed to combating it.

According to the Ministry of Health, there were approximately 180 killings of homosexuals during the year.

No further information was available, and none was expected, in the August 2003 trial of military police officers accused of the 2000 beating death of transvestite Henrique de Souza Lima in Curitiba, Parana.

In December 2003, state prosecutors charged Mayor Elcio Berti of Bocaiuva do Sul, Parana State, with violating state and federal antidiscrimination laws and abuse of administrative power for issuing a decree in December 2003 prohibiting homosexuals from living in the town. The town's public prosecutor convinced Berti to revoke the decree to avoid a public investigation and filing of the case. In a hearing on June 16 for a civil case against the mayor, filed by the human rights NGO Grupo Dignidade, Berti claimed that the decree was an internal joke that was mistakenly released to the press. Grupo Dignidade filed a further case against the mayor with the National Council to Combat Racism. The case remained pending at year's end.

During the year, four gang members convicted in the 2000 killing in Sao Paulo of Edson Neris da Silva received sentences ranging from 2 to 19 years in prison.

The Secretariat of State Security in Rio de Janeiro, in partnership with NGOs, operated a hotline and offered professional counseling services to victims of anti-homosexual crimes.

In November, Rio de Janeiro state lawmakers reversed the governor's veto on a bill that gives same-sex partner benefits to government employees. The state's 70-member assembly voted 37 to 21 to override the veto and the law went into effect. In July, a Sao Paulo state court ordered 15 health insurance companies to recognize same-sex couples in their coverage.

In April, the Special Secretariat for Human Rights launched the "Brazil Without Homophobia" program, which sought to stop violence against homosexuals, provide legal counsel to victims of violence, and prevent anti-homosexual sentiment by pro-

viding tolerance training for school-aged children. According to the National Secretariat for Human Rights, the program aims to strengthen public institutions and NGOs that promote homosexual rights and combat homophobia; offers training to professionals and representatives in the homosexual community; creates publicity campaigns to raise awareness and disseminate information about homosexual rights and to promote homosexual self-esteem; and encourages reporting of violence against homosexuals.

There was some societal discrimination against the elderly. The cities of Sao Paulo and Porto Alegre had police stations that specifically attended to the rights of the elderly. The Sao Paulo police station reported that the number of senior citizens served increased 99 percent (to 4,453) during the year. The station advised senior citizens on their rights and accepted complaints of maltreatment, abandonment, threats, and confiscation of property. Station officials attributed the increase in service to the Statute of the Elderly, which entered into effect on January 1. The Statute criminalizes discrimination against, abandonment of, or failure to provide emergency assistance to the elderly, and provides penalties of up to 6 months in jail. According to the police, close family members, in particular, the victim's children, committed 90 percent of the offenses registered, the most common of which was the confiscation of the senior citizen's pension.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Labor Code provide for union representation of all workers (except members of the military, the uniformed police, and firefighters) but impose a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the Ministry of Labor and Employment (MLE), which accepts the registration if no objections are filed by other unions. Unions that represent workers in the same geographical area and professional category may contest registration, in which case the MLE's Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MLE does not register the union. Union organizers may challenge this decision in the labor courts.

The Constitution stipulates certain restrictions, such as "unicidade" (one-per-city), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a given geographical area. Most elements of the labor movement, as well as the International Confederation of Free Trade Unions (ICFTU), criticized the retention of unicidade. In practice, a number of competing unions were allowed to exist among the thousands of local unions; however, the MLE and the courts enforced the principle of unicidade in decisions regarding the registration of new unions.

Approximately 16 percent of the work force was unionized. Most informal sector workers, including self-employed workers and those not formally registered with the Ministry of Labor, fell outside the official union structure and thus did not enjoy union representation and were usually unable to exercise fully their labor rights. The informal sector accounted for approximately one-half of the labor force. In the agricultural sector, 70 percent of workers were unregistered.

Intimidation and killings of rural labor union organizers and their agents continued to be a problem. The CPT reported that labor leaders were victimized by a campaign of violence in rural areas, with the perpetrators enjoying relative impunity (*see* Section 1.a.). The CPT reported that seven rural labor leaders were killed during the year.

Violence against labor leaders continued to be most intense in Para State, where—according to leaders of the National Confederation of Agricultural Workers—there was an organized campaign to kill rural labor leaders. Catholic Church sources reported that 33 activists and rural workers were killed in Para State in 2003, including union leader Osvaldo Pereira Santos. CPT leaders in Para State continued to claim that gunmen hired by estate owners committed most of these killings. They noted that those who hire gunmen had become more adept at hiding their participation and increasingly targeted labor leaders with significant experience in organizing and leading land appropriations.

No new information was available and none was expected regarding the 2002 killings of MST leader Ivo Lindo do Carmo and union official Bartolomeu Morais de Silva.

The Constitution prohibits the dismissal of employees who are candidates for or holders of union leadership positions. The law requires employers to reinstate workers fired for union activity; however, at times, the authorities did not effectively enforce laws protecting union members from discrimination. Labor courts charged with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances were slow and cumbersome. According to the

Supreme Labor Court, more than 2 million complaints were registered annually in labor courts; when ultimately resolved, most parties agreed that cases were decided fairly and on their merits. Although most complaints were resolved in the first hearing, the appeals process introduced many delays, and some cases remained unresolved for 5 to 10 years; however, the trial backlog was reduced during the year. Courts have resolved more than the number of new suits filed each year for the period 2000–2003.

b. The Right to Organize and Bargain Collectively.—Collective bargaining was widespread in the formal sector. The law obliges unions to negotiate on behalf of all registered workers in the professional category and geographical area they represent, regardless of whether an employee pays voluntary membership dues to the union.

The Constitution provides workers (except for the military, police, and firefighters) with the right to strike, and workers exercised this right in practice. The Government seldom interfered with the right of government workers to strike. While the civil police were allowed to form unions and conduct strikes, the military (uniformed) police were prohibited from organizing.

The law stipulates that a strike may be ruled "abusive" by labor courts and be punishable by law if a number of conditions are not met, such as maintaining essential services during a strike and notifying employers at least 48 hours before the beginning of a walkout. Failure to end a strike after a labor court decision is punishable by law. Employers may not hire substitute workers during a legal strike or fire workers for strike-related activity provided that the strike is not ruled abusive. However, in practice, employers did fire strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge was often a protracted process (*see* Section 6.a.).

Labor law applies equally in the country's four free trade zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children; however, forced labor and trafficking of workers were reported in many states (*see* Section 5). The practices occurred most commonly in the rural north and central west of the country, in activities such as forest clearing, logging, charcoal production, raising of livestock, and agriculture. Forced labor typically involved young men drawn from the impoverished northeast, but women and children also were engaged in activities such as charcoal production. Children involved in forced labor typically worked alongside their parents.

Labor inspectors also found immigrants working in conditions of forced labor in Sao Paulo. According to government officials, Bolivian, Korean, and Chinese laborers were exploited in urban sweatshops under conditions that possibly involved fraud or coercion.

In a March report to the U.N., the Government acknowledged that an estimated 25,000 workers were trapped in forced labor schemes throughout the country. The Pastoral Land Commission, an NGO linked to the Catholic Church, made a similar estimate. A November ICFTU report estimated that 40,000 persons worked in conditions of slavery.

Labor intermediaries ("gatos") trafficked most forced laborers to the remote estates where they worked. At the worksite, laborers were forced to work in harsh conditions until they repaid inflated debts related to the costs of travel, tools, clothing, or food. Armed guards sometimes were used to retain laborers, but the remoteness of the location, confiscation of documents, and threats of legal action or physical harm usually were sufficient to prevent laborers from fleeing.

The CPT reported that fleeing workers were killed or beaten to intimidate others at the worksite. Workers were vulnerable to forced labor schemes largely due to dire poverty, low levels of education, and a lack of awareness about their rights.

The Penal Code provides that violators of forced or compulsory labor laws may be sentenced up to 8 years in prison. The law also provides penalties for various crimes related to forced labor, such as recruiting or transporting workers or obliging them to incur debt as part of a forced labor scheme. The abolition of forced labor was hindered by failure to impose effective penalties, the impunity of those responsible, delays in judicial procedure, and the absence of coordination between the various government bodies.

The law also allows the Government to expropriate lands on which forced labor has been found and to distribute the property in the Government's land reform program; however, this provision was narrowly focused. The Senate approved a constitutional amendment, which the Chamber of Deputies had under consideration at year's end, to facilitate the process of expropriating land where forced labor has been found and to permit distribution of the land to workers who had been in the condition of forced labor. On October 19, the Government announced the expropria-

tion of "Cabaceiras," a farm located in Maraba, Para State. A February inspection found that 18 workers, including a 16-year-old, lived at the farm and worked under slave-like conditions.

Because of the limitations of the Penal Code concerning forced labor and the slow workings of the criminal justice system, violators of forced labor laws enjoyed virtual impunity from criminal prosecution. As a result, the Government used fines and other disincentives to penalize those who utilized forced labor. The Public Labor Ministry closed more than 50 cases involving fines and other penalties for landowners who used forced labor. In addition, the Government developed a blacklist to stop all forms of government-assisted credit to farms using forced labor. Other factors contributing to the lack of criminal prosecutions included: Disputes over legal jurisdiction; the lack of a clear definition of forced labor in the Penal Code; local political pressure; weak coordination among the police, the judiciary, and prosecutors; the remoteness of areas in which forced labor was practiced; witnesses' fear of retaliation; and police failure to conduct criminal investigations when accompanying labor inspectors on raids.

The Executive Group to Combat Forced Labor coordinated the Government's efforts to eliminate forced labor. The group's enforcement arm, the Special Group for Mobile Inspection, had responsibility for locating and freeing workers trapped in forced labor. The mobile unit worked in conjunction with federal police officers, who sometimes accompanied labor inspectors on raids to provide protection. When mobile teams found workers in conditions of forced labor, they levied fines on estate owners and required employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin.

During 2003, the mobile group located 5,010 forced laborers, nearly double the figure from the previous year. Forced laborers were found in activities including deforestation, logging, mining, raising livestock, and harvesting sugarcane, coffee, cotton, papayas, pepper, and soybeans.

In February, the mobile team freed 38 forced laborers from a farm owned by Senator Joao Ribeiro in Picarra, Para State. On June 17, the Senator was charged in Federal Court for having workers in conditions of forced labor on his plantation, and the case remained pending at year's end.

The case involving 53 workers found working in conditions of forced labor in 2002 on a ranch owned by Inocencio Oliveira, a leading member of the federal Chamber of Deputies, was resolved with a heavy series of fines, amounting to more than $200,000 (560,000 reais), plus damages to the workers.

Although mobile units enjoyed some success in freeing those operating in slave-like conditions, inspectors sometimes faced resistance. On January 28, three team members and their driver were killed while conducting inspections in Unai in Minas Gerais State (*see* Section 1.a.).

The Government conducted programs to prevent workers from repeatedly falling prey to trafficking and forced labor schemes. Freed workers may receive three installments of unemployment insurance equal to the minimum wage, approximately $93 (260 reais) per month, and were eligible for job training. The CPT ran an informational campaign to educate rural workers, particularly in rural areas targeted by traffickers, about the dangers of forced labor (*see* Section 5). In some states, local unions registered and tracked workers who left the municipality to work on remote ranches. The National Confederation of Agricultural Workers' radio programs also educated rural workers about forced labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law restricts work that may be performed by children; however, child labor continued to be a widespread problem.

The minimum working age is 16 years, and apprenticeships may begin at age 14. The law bars all minors under age 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthy, dangerous, or morally harmful conditions; however, the authorities rarely enforced additional legal restrictions intended to protect working minors under age 18. The law requires parental permission for minors to work as apprentices, and apprentices must attend school through the primary grades.

In 2003, 6.7 percent of children age 14 and under worked. Approximately half of child laborers received no income, and 90 percent worked in the unregistered informal sector. The highest incidence of child labor was found in the Northeast, where half of all child workers in the country were employed. Slightly more than half of child laborers worked in rural areas, and two-thirds were boys.

The Ministry of Labor reported that children worked in approximately 100 rural and urban activities. Common rural activities included fishing, mining, raising livestock, producing charcoal, and harvesting sugarcane and other crops. In urban

areas, children worked in shoe shining, transportation, construction, restaurants, street peddling, begging, drug trafficking, and prostitution (*see* Section 5). The ILO estimated that approximately 20 percent of 10- to 14-year-old girls worked as household domestics. Most of these workers received less than half the minimum wage and worked in excess of 40 hours a week.

The hidden and informal nature of child labor made children especially vulnerable to workplace accidents. For instance, children who produced charcoal, sisal, sugarcane, and footwear suffered from dismemberment, gastrointestinal disease, lacerations, blindness, and burns caused by applying pesticides with inadequate protection.

The MLE was responsible for inspecting worksites to enforce child labor laws. Special Groups for the Eradication of Child Labor guided regional efforts to enforce child labor laws, principally by gathering data and developing plans for child labor inspection. Still, most inspections of children in the workplace were driven by complaints brought by workers, teachers, unions, NGOs, and the media. Labor inspectors continued to prioritize inspections in the informal sector to reduce the number of unregistered workers, but they remained unable to enter private homes and farms, where much of the nation's child labor was found. In most cases, inspectors attempted to reach agreements and to have employers desist from labor law violations before levying fines of $143 (400 reais) per violation. As a result, few employers were fined for employing children.

MLE inspectors often worked closely with labor prosecutors from the Public Ministry of Labor (MPT), who had broader powers and were able to impose larger fines. The MPT—an independent agency responsible for prosecuting labor infractions—has a national commission to fight child labor. The commission included 50 prosecutors and focused on strategic areas including sexual exploitation, trash collecting, apprenticeships, and work in a family setting.

The Ministry of Social Assistance coordinated the Government's Program for the Eradication of Child Labor (PETI), which provided cash stipends to low-income families who kept their children in school and out of work. Because the public school day lasts only 4 hours, PETI emphasized complementary educational activities for children during non-school hours as an alternative to working. PETI assisted more than 1 million children in all 26 states and the federal capital during the year, focusing on removing children from work activities considered to be among the most hazardous by the Government. Although the program concentrated on rural areas, it also grew rapidly in urban areas.

To prevent child labor and promote education, the Federal Government also continued to expand Bolsa Escola, its school stipend program. The program provided stipends of approximately $9 to $14 (25 to 40 reais) to low-income rural and urban families for each child (up to a total of three children per family) between the ages of 6 and 15 whose school attendance rate was 85 percent. Municipal governments had primary responsibility for day-to-day management of the program. At year's end, the program provided stipends to the mothers of approximately 810,000 children in more than 2,500 municipalities. In addition to the federal program, an estimated 100 municipal governments operated stipend programs.

NGOs supported the Government's child labor elimination programs. For example, the National Forum for the Prevention and Eradication of Child Labor, with chapters in every state and more than 40 institutional members from the Government and private sector, promoted debate and broad analysis of national child labor prevention efforts. In addition, the Centers for the Defense of Children and Adolescents were active in many parts of the country and reported violations of children's rights. The Pro-Child Institute, in Sao Paulo State, coordinated a labeling program to reduce instances of child labor in the footwear industry.

The ILO's Program on the Elimination of Child Labor focused on capacity building, awareness raising, research promotion, incorporation of income generating schemes, and monitoring systems in child labor prevention programs. The ILO also coordinated a program to reduce sexual exploitation of children and child labor in domestic services (*see* Section 5).

UNICEF supported more than 200 programs to improve the lives of children, remove them from exploitative work situations, and place them in schools, in part by providing scholarships to families and helping adults in those families find other forms of income generation.

The private sector also played a role in fighting child labor. The Toy Industry's ABRINQ Foundation for Children's Rights operated a labeling program that identified companies with child-friendly policies and a commitment to eliminate child labor. The foundation also fostered initiatives through its awards programs for organizations, journalists, and mayors. All major labor centrals implemented programs

to educate union members about the hazards of child labor and encouraged members to report instances of child labor to authorities.

e. Acceptable Conditions of Work.—The national minimum wage did not provide a decent standard of living for a worker and family. The Government adjusts the minimum wage annually; in April, it was raised from approximately $86 to $93 (from 240 to 260 reais) a month. In December, the Government announced plans to raise the minimum wage to $107 (300 reais) a month in 2005. The IBGE estimated that approximately one in three workers earned the minimum wage or less.

The Constitution limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The law also includes a prohibition on excessive overtime and stipulates that hours worked above the weekly limit must be compensated at time and a half pay; these provisions generally were enforced in the formal sector. The law allows employers to compensate workers with time off rather than with overtime pay, provided that the local union agrees.

The Ministry of Labor sets occupational, health, and safety standards, which are consistent with internationally recognized norms; however, the Ministry devoted insufficient resources for adequate inspection and enforcement of these standards. Unsafe working conditions were prevalent throughout the country. During 2003, workplace accidents dropped slightly from 393,071, to 390,180, and deaths from accidents dropped from 2,898 in 2002 to 2,582 in 2003. Employees or their unions may file claims related to worker safety with regional labor courts, although this was frequently a protracted process.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. However, such firings did occur, and legal recourse usually required years for a resolution. The MPT reported that numerous firms used computerized records to compile "blacklists" identifying workers who had filed claims in labor courts. Individual workers did not have the legal right to remove themselves from the workplace when faced with hazardous working conditions; however, workers could express such concerns to a company committee for an immediate investigation.

CANADA

Canada is a constitutional monarchy with a federal parliamentary form of government. Citizens periodically choose their representatives in free and fair multiparty elections. Elections were held on June 28, and the ruling Liberal Party, under Prime Minister Paul Martin, retained power, albeit in a minority government. The judiciary is independent.

Federal, provincial, and municipal police forces have responsibility for law enforcement and maintenance of order. The newly organized Department of Public Safety and Emergency Preparedness is the cabinet ministry responsible for providing direction to the federal law enforcement and police agencies. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The country has a highly developed, market-based economy and a population of approximately 32.5 million. Real gross domestic product growth was estimated at 3.3 percent in 2003, and wages and benefits generally kept pace with inflation.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. However, there were problems in some areas, including sporadic incidents of excessive force by police, increased reports of anti-Semitic acts, and trafficking in persons. Incidents of violence against women declined during the year.

RESPECT FOR HUMAN RIGHTS

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

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

The media reported on several cases involving individuals who died after police used Taser guns while making the arrest. Although media reports initially speculated that Taser guns caused these deaths, subsequent reporting indicated that the cause of death in each of these cases was from drug overdoses, and police authorities were cleared of any wrongdoing.

On January 23, a youth, in the custody of two court guards, died after he fell down a courthouse elevator shaft. A police spokesman stated the elevator car was not in place when the doors opened and the handcuffed boy stepped into the shaft, a claim the elevator manufacturer disputed. On July 21, police announced there was insufficient evidence to proceed with charges against the guards.

On September 30, a member of the Royal Canadian Mounted Police (RCMP) was convicted of manslaughter for the 1999 killing of a prisoner that he had earlier arrested.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the Government generally observed these prohibitions in practice; however, there were isolated incidents of police mistreating suspects.

During the year, police in Edmonton were accused of using excessive force when responding to minor infractions in the city's tourist district. Among other incidents, police allegedly knocked a man to the ground for jaywalking; repeatedly kicked a person for swearing at officers; and repeatedly hit a handcuffed person in the face.

On September 24, an inquiry concluded that the Saskatoon Police had conducted an inadequate investigation into the circumstances of the death of an aboriginal teenager who was found frozen on the outskirts of Saskatoon in 1990. In November, the Saskatoon Police fired the two police offices who were involved in the case.

In January, six Vancouver police officers who pleaded guilty in November 2003 to common assault were sentenced: Two officers were fired and given house arrest sentences of 60 and 30 days, two officers were given suspended sentences, and the charges against the remaining two officers were dropped.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Unlike in 2003, there were no reports of riots at prisons within the country.

Prisons, both at the federal and local level, generally held men and women separately. In addition, juveniles were not incarcerated with adults, and pre-trial detainees were held separately from convicted prisoners.

In January, the Canadian Human Rights Commission found that systemic flaws routinely eroded the human rights of women in prison and made 19 recommendations on how to fix discrimination on the basis of sex, race, and disability. Complaints from human rights activists focused on several problems: Women who were assigned to maximum security prisons often had mental health problems, did not have access to the services they needed, and often were segregated for months.

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

The RCMP is a national, federal, provincial, and municipal policing body. It provides complete federal policing service throughout the country and also provides policing services under contract to the 3 territories, 8 provinces (Quebec and Ontario have their own provincial police), and approximately 198 municipalities.

A judge may issue a warrant after being satisfied that a criminal offense may have been committed. A person arrested for a criminal offense has the right to remain silent, to be informed as to the reason for the arrest, to engage a lawyer, and to have prompt access to family members. Bail generally was available.

In December, a federal appeals court ruled that it is constitutional for the Government to imprison, without public trial, any non-citizen who poses a security threat. Cases are presented in secret to two cabinet ministers by intelligence or police agencies and then reviewed by a federal judge. The evidence is not shown to the detained individual. If the judge approves the ministers' recommendation, the individual may be imprisoned indefinitely, pending deportation proceedings. Since 1991, this procedure has been used 27 times. At year's end, pursuant to this procedure, six individuals were incarcerated awaiting deportation.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the Government generally respected this provision in practice. The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

The court system is divided into federal and provincial courts, which handle both civil and criminal matters. The highest federal court is the Supreme Court, which exercises general appellate jurisdiction and advises on constitutional matters.

The judicial system is based on English common law at the federal level as well as in most provinces; in Quebec Province, it is derived from the Napoleonic Code. Throughout the country, judges are appointed. In criminal trials, the law provides for a presumption of innocence and the right to a public trial, to counsel (which is

free for indigents), and to appeal. The prosecution also may appeal in certain limited circumstances.

Under the provisions of Ontario Province's 1991 Arbitration Act, the Islamic Institute of Civil Justice gained the right in 2003 to hold tribunals in which marriage, family, and business disputes can be settled according to Shari'a law. The tribunals are voluntary, and decisions must comply with the Charter of Rights and can be appealed to the court system.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such practices, and the Government generally respected these prohibitions in practice.

In June, the Supreme Court issued two rulings in response to several court challenges to the 2001 antiterrorism Security of Information Act that expanded police investigative and wiretapping powers. The Court ruled that witnesses must answer questions in special investigative hearings, while limiting the Government's ability to cloak these procedures in secrecy.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and the press. The independent media were active and expressed a wide variety of views without restriction.

The Supreme Court has ruled that the Government may limit free speech in the name of goals such as ending discrimination, ensuring social harmony, or promoting gender equality. The Court ruled that the benefits of limiting hate speech and promoting equality are sufficient to outweigh the freedom of speech clause in the Charter of Rights and Freedoms.

Inciting hatred (in certain cases) or genocide is a criminal offense, but the Supreme Court has set a high threshold for such cases, specifying that these acts must be proven to be willful and public. The Broadcasting Act prohibits programming containing any abusive comment that would expose individuals or groups to hatred or contempt. Provincial-level film censorship, broadcast licensing procedures, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography also imposed some restrictions on the media.

The Human Rights Act prohibits repeated telephone communications that expose a person or group to hatred or contempt.

On January 21, police officers searched the home of an Ottawa newspaper reporter and the offices of the newspaper itself in search of documents related to a Syrian-born Canadian citizen arrested abroad as a suspected terrorist. The reporter faced possible criminal charges under the anti-terrorism Security of Information Act. Although a court authorized the search, some members of the media and human rights groups raised concerns that it infringed on the Charter of Rights, which guarantees the freedom of the press.

On August 26, the Canadian Radio-Television and Telecommunications Commission (CRTC) agreed to allow a Quebec City radio station to continue broadcasting, pending a court decision on whether the station can renew its license to broadcast. Since 1996, the general public has filed numerous complaints with the CRTC, alleging that announcers on the station used offensive comments, personal attacks, and harassment as part of their programming. The station portrayed the CRTC action as an attempt to curb the station's freedom of expression. The case prompted extensive media coverage in Quebec Province, and there were public demonstrations in support of the radio station in Quebec City and Ottawa.

The Government did not restrict access to the Internet.

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

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

There is no official state religion, and religious groups are not required to register with the Government. Public funding for Roman Catholic schools is constitutionally protected in the country's original four provinces.

In March, the Quebec Human Rights Commission ruled that a private school could not expel a Muslim student for wearing a hijab (head scarf) after a September 2003 incident in which a 16-year-old girl refused to remove her hijab. In August, the Government issued a statement assuring Muslims that their religious right to

wear a hijab would be respected and protected when photographs are taken for the Canadian Permanent Resident card. The statement responded to complaints made by Muslim women who were told to remove their hijab at the Pierre Trudeau International Airport in Montreal.

There were a number of reports of harassment of religious minorities.

In the first 8 months of the year, the League for Human Rights of B'nai Brith received nearly 600 reports of anti-Semitism, compared with 584 such reports in all of 2003. Incidents included harassment (66 percent of incidents), vandalism of property (31 percent), and violence (3 percent). For example: On April 4, the library of a Jewish elementary school in Montreal was firebombed; the perpetrator was awaiting sentencing at year's end. On June 2, vandals overturned 20 gravestones in the Beth Israel Cemetery in Quebec City. In December, the major windows of a synagogue in the Greater Toronto area were smashed. All levels of government reacted strongly to the incidents.

There were 17 incidents of harassment of Muslim institutions and mosques, according to the Council of American-Islamic Relations Canada. The Government urged the population to refrain from prejudice against Muslims or other persons on the basis of their religious beliefs, ethnic heritage, or cultural differences. Police forces investigated and discouraged anti-Muslim actions.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice.

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

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. The Government offered resettlement, and, at year's end, 27,290 refugee and asylum cases were pending.

On March 16, the Government announced changes to the appointment process to the Immigration and Refugee Board (IRB) to eliminate political patronage, strengthen the criteria for appointment to the IRB, and increase parliamentary review. This action responded to public criticism that the acceptance rate of refugee claims varied widely between individuals members of the IRB and that some IRB members were unqualified to decide refugee claims.

In 2002, the Supreme Court ruled that refugees facing torture in their home countries generally cannot be deported there, unless evidence shows that their continued presence poses a serious threat to national security. On March 4, the Office of the Public Safety Minister, reversing an IRB decision, ruled that a North Korean defector could remain in the country, reasoning that the individual would likely be tortured or killed if deported to North Korea.

The case of a Sri Lankan suspected of being a fundraiser for the Tamil Tigers, who claimed that he would be tortured upon return to Sri Lanka, remained pending after he appealed his deportation order to a Federal court in May.

A safe country of transit agreement to return asylum applicants previously resident in the United States to that country for adjudication came into force on December 29.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

On June 28, a general election was held, and the ruling Liberal Party maintained control of Parliament for the fourth consecutive election; however, the party did not win a majority of seats, and the country will have its first minority Government since 1979. The Liberal Party won 135 seats, the Conservative Party 99 seats, the Bloc Quebecois 54 seats, the New Democratic Party 19 seats, and Independent (non-party affiliated) 1 seat.

Corruption in government was not considered a significant problem, as reflected in an independent assessment prepared by Transparency International. In Feb-

ruary, a report by the Auditor General revealed that up to $80 million (Cdn 100 million) of the $200 million (Cdn 250 million) authorized for government advertising in Quebec from 1996 to 2001 was allocated to advertising firms that were allies of the Quebec branch of the ruling Liberal Party. The case prompted extensive media coverage throughout the country and tarnished the reputation of the Government. A government investigation continued at year's end.

The Government has an access to information law that permits public access to government information by citizens and non-citizens, including foreign media. In January, the Government announced initiatives to improve transparency in government that included releasing on a quarterly basis the public expenditures of senior government officials.

No laws limit the participation of women or minorities in political life. There were 65 women and 5 aboriginal (Inuit, North American Indian, or Metis) members in the 308-member House of Commons. There were 33 women and 5 aboriginal members in the 93-seat Senate (whose members are appointed by the Government, and not elected). Women held 8 seats in the 39-person Cabinet. The Governor General and four of the nine members of the Supreme Court, including the Chief Justice, were women.

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

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

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for equal benefits and protection of the law regardless of race, national or ethnic origin, color, sex, age, or mental or physical disability; these rights generally were respected in practice.

Women.—The law prohibits violence against women, including spousal abuse; however, it remained a concern. Statistics Canada reported that there were 74.1 sexual assaults per 100,000 population in 2003, down from 78.1 in 2002. The direct medical costs of violence against women were estimated at $1.2 billion (Cdn $1.5 billion).

The courts consider sexual abuse cases seriously, and those convicted face up to 10 years in prison. Sexual assaults involving weapons, threats, wounding, or endangerment of life carry longer sentences, up to life imprisonment.

There were more than 500 shelters for abused women, providing both emergency care and long-term assistance. The Government has a Family Violence initiative that involves 12 departments, and a cabinet ministry, Status of Women Canada, that was charged with eliminating systemic violence against women and advancing women's human rights.

In October, Amnesty International issued a report that charged that the Government failed to provide aboriginal women with adequate protection. The report stated that more than 500 aboriginal women had disappeared over the past 20 years, and the precarious social and economic status of aboriginal women pushed them into dangerous situations including poverty, homelessness, and prostitution.

Prostitution is legal, but pimping (benefiting from the earnings of prostitution of another) and operating, being found in, or working in a brothel are not.

Women were trafficked for purposes of sexual exploitation (*see* Section 5, Trafficking).

The Criminal Code prohibits criminal harassment (stalking) and makes it punishable by imprisonment for up to 5 years. The law prohibits sexual harassment, and the Government generally enforced this provision. Women continued to complain of sexual abuse, harassment, and discrimination in the armed forces, and the Government established mechanisms to resolve complaints. An independent armed forces grievance board addressed such complaints.

Women were well represented in the labor force, including business and the professions. Employment equity laws and regulations cover federal employees in all but the security and defense services. Women have marriage and property rights equal to those of men.

Children.—The Government demonstrated its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Education is free through grade 13 and is compulsory nationwide through age 15 or 16, depending on the province. UNICEF reported that 100 percent of elementary-age children attended school, and most children graduated from high school.

Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalize perpetrators of such offenses.

There was no societal pattern of abuse of children. Cases of past institutional abuses of children (mostly orphans and aboriginal children) in residential homes remained the subject of continuing class action litigation and settlements. Approximately 1,000 cases have been settled; however, an estimated 12,000 remained outstanding.

Children were trafficked for purposes of sexual exploitation (*see* Section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking remained a problem. The law establishes criminal penalties of up to life in prison and fines of up to $800,000 (Cdn $1 million) for convicted traffickers; however, no prosecutions have yet resulted from the legislation. On February 11, a Montreal court sentenced a man charged in 2002 (prior to passage of the new law) of being part of a prostitution ring, which involved girls as young as 14, to 3 years in jail.

The Government has an interdepartmental working group, consisting of 17 departments and agencies and co-chaired by senior officials from the ministries of Justice and Foreign Affairs, to combat trafficking in persons. The RCMP was establishing a task force to investigate offenses related to trafficking in persons.

On December 15, the Government revised immigration regulations that permitted the adult entertainment industry to utilize a blanket authorization to recruit foreign women to enter the country on temporary work visas to be employed as exotic dancers. Requests must now be considered individually. The Government acknowledged the possibility that some women hired under the earlier rules may have been suborned into the sex trade.

The country was a destination and a transit point to the United States for women, children, and men trafficked for purposes of sexual exploitation, labor, and the drug trade. In February, the RCMP conservatively estimated that annually 800 persons were trafficked into the country and 1,500 to 2,200 persons were trafficked into the United States.

Thousands of persons entered the country illegally over the last decade. These persons came primarily from East Asia (particularly China and Korea, but also Malaysia), Central and South Asia, Eastern Europe, Russia, Latin America and the Caribbean (including Mexico, Honduras, and Haiti), and South Africa. Many of these illegal immigrants paid large sums to be smuggled to the country, were indentured to their traffickers upon arrival, worked at lower than minimum wage, and used most of their salaries to pay down their debt at usurious interest rates. The traffickers used violence to ensure that their clients paid and that they did not inform the police. Asian women and girls who were smuggled into the country often were forced into prostitution. Traffickers used intimidation and violence, as well as the illegal immigrants' inability to speak English, to keep victims from running away or informing the police.

Vancouver and Toronto served as hubs for organized crime groups that traffic in persons, including trafficking for prostitution. East Asian crime groups targeted the country, Vancouver in particular, exploiting immigration laws, benefits available to immigrants, and the proximity to the U.S. border. Police stated that the number of South Koreans involved in smuggling or trafficking activity had "grown exponentially" since the country removed its visa requirement for South Korea in 1994. On February 22, police and border officials arrested 10 South Koreans trying to cross the border into Montana; the individuals, who were apparently trafficking victims, had entered the country in Vancouver.

Although the Government does not specifically provide funding for trafficking victims, such victims could access a number of programs and services, ranging from health care to legal assistance. Victims of trafficking also were eligible to apply for assistance from victims' assistance funds maintained by the provincial governments. Trafficking victims may apply for permanent residence under the "humanitarian and compassionate" provisions of the Immigration Act; however, some victims of trafficking were arrested and deported.

The Government's Interdepartmental Working Group on Trafficking in Persons trained officials to increase awareness about trafficking. The Group also produced and distributed an anti-trafficking pamphlet to the country's diplomatic missions and to nongovernmental organizations (NGOs) with access to potential victims in source countries. In addition, the Government supported efforts by NGOs and community organizations to raise awareness of trafficking and funded academic studies of the problem.

Persons With Disabilities.—There was no legal discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Sexual exploitation of persons with disabilities in situations of dependency is a criminal offense. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice.

Persons with disabilities were underrepresented in the workforce.

National/Racial/Ethnic Minorities.—The Charter of Rights and Freedoms protects the linguistic and cultural rights of minorities and established English and French as the country's two official languages. Despite the federal policy of bilingualism, English speakers in Quebec and French speakers in other parts of the country generally lived and worked in the language of the majority. The provinces may grant French or English the status of an official language. Only New Brunswick has granted the two languages equal status. The Charter of the French Language in Quebec makes French the official language of the province and requires the use of French in commerce, the workplace, education, and government. Minority language rights are secured by law in Quebec's Charter of the French Language.

The English-speaking minority of Quebec, representing 9 percent of the population of the province and 16 percent of the population of the city of Montreal, continued to protest restrictions placed on English-language use. English speakers also expressed concern over health services and public schooling in their language.

The Charter of the French Language restricts access to publicly funded English education only to those students who did most of their elementary or secondary studies in English in the country. The law also limits English language education to those students with a brother or a sister who did most of their elementary or secondary studies in English in the country or in cases in which the father or the mother did most of his or her studies in English in the country.

Provinces other than Quebec often lacked adequate French-language schooling and health services.

Indigenous People.—The law recognizes three different groups of aboriginals: Indians (generally called First Nations), Inuit (formerly called Eskimos), and Metis (persons of mixed Indian-European ancestry). A September 2003 Supreme Court decision gave the Metis the same hunting rights as other aboriginal groups and marked the first time that Metis rights had been constitutionally defined. Aboriginals constituted approximately 2.8 percent of the national population and higher percentages in the country's three territories: Yukon, 20 percent; Northwest Territories, 62 percent; and Nunavut, 84 percent. Disputes over land claims, self-government, treaty rights, taxation, duty-free imports, fishing and hunting rights, and alleged harassment by police continued to be sources of tension on some reserves. Aboriginals remained underrepresented in the work force, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide and poverty than other population groups.

The Constitution recognizes aboriginal rights, and the law specifically protects such rights, including those established by historical land claims settlements. Historical treaties with aboriginal groups in the eastern part of the country form the basis for the Government's policies there, but there were legal challenges to the Government's interpretation of treaty rights. Aboriginal groups in the west that never signed historical treaties continued to claim land and resources, and many continued to seek legal resolution of outstanding issues. As a result, the evolution of the Government's policy toward aboriginal rights, particularly land claims, has been linked closely to legal challenges, including 45 Supreme Court decisions.

On April 19, the Government announced a series of steps designed to strengthen the relationship with the aboriginal leadership, including the creation of a report card to measure progress in key socioeconomic areas. On September 13, the Government undertook to provide $560 million (Cdn $700 million) to encourage greater aboriginal participation in the health professions, to address chronic diseases such as diabetes, and to create an Aboriginal Health Transition Fund to adapt existing health care services to aboriginal needs.

The Government continued the process of claim settlements. The Government also continued self-government negotiations with more than 350 First Nations.

In July, the Supreme Court announced that it would hear a case on the question of whether the Government violated aboriginal treaty rights in authorizing a road through the country's largest national park. The case, which was pending at year's end, raised the issue of whether treaty rights negotiated with aboriginal groups by the Government take precedent over environmental law and the regulatory power of the Government to manage a national park.

A 2002 case brought by the Gitanyow, an indigenous group located near the Nisga'a people in northwestern British Columbia, who contended that a 2000 treaty awarded more than 85 percent of their traditional tribal lands to the Nisga'a, remained pending in the courts. However, the Gitanyow were negotiating their own treaty settlement and agreed not to pursue litigation while negotiations continued.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers in both the public (except armed forces and police) and the private sectors to form and join unions of their choice without previous authorization, and workers did so in practice.

Trade unions are independent of the Government. Approximately, 29.5 percent of the civilian labor force was unionized.

b. The Right to Organize and Bargain Collectively.—All workers, except for those in the public sector who provide essential services, have the right to strike, and workers exercised this right in practice. The law prohibits employer retribution against strikers and union leaders, and the Government generally enforced this provision in practice. There are no export processing zones.

Labor action, including strikes, occurred throughout the country during the year, including strikes against the Government by approximately 120,000 federal employees.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor legislation varies from province to province. The Government does not employ youths under 17 years of age while school is in session. Most provinces prohibited children under age 15 or 16 from working without parental consent, at night, or in any hazardous employment. Inspections conducted by the federal and provincial labor ministries enforced these prohibitions effectively.

e. Acceptable Conditions of Work.—Each province and territory set minimum wage rates, which ranged from $4.72 to $6.40 (Cdn $5.90 to Cdn $8.00) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. The minimum wage did not provide a decent standard of living for a worker and family, and a family whose only employed member earns the minimum wage would fall below the poverty line.

Standard work hours vary from province to province, but in all provinces the limit is 40 or 48 hours per week, with at least 24 hours of rest. The law requires payment of a premium for work above the standard workweek.

Federal law provides safety and health standards for employees under federal jurisdiction, while provincial and territorial legislation provides for all other employees. Federal and provincial labor departments monitored and enforced these standards. Federal, provincial, and territorial laws protect the right of workers with "reasonable cause" to refuse dangerous work and to remove themselves from hazardous work conditions.

CHILE

Chile is a multiparty democracy with a constitution that provides for a strong executive, a bicameral legislature, and a separate judiciary. The Constitution written under the former military government retains certain institutional limits on popular rule. Some amendments to remove these limits were under review by the Congress at year's end. In January 2000, voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. The judiciary is independent.

The armed forces are constitutionally subordinate to the President through an appointed civilian Minister of Defense but enjoy a large degree of legal autonomy. The President must have the concurrence of the National Security Council, which consists of military and civilian officials, to remove service chiefs. The Carabineros (the uniformed national police) and the civilian Investigations Police are under the operational control of the Ministry of Interior and were responsible for law enforcement and maintenance of order. A National Intelligence Agency was formed, also under the Ministry of the Interior, to coordinate intelligence-gathering and analysis functions. Civilian authorities maintained effective control of the security forces. Some members of security forces committed human rights abuses.

The economy was export-led and market-based; services and resource-based industry were the major sectors. The population was approximately 15.2 million, and real economic growth was estimated at 5.8 percent. Wages and benefits slightly outpaced inflation, but unemployment remained above 9 percent. Copper remained the most important export; salmon, forest products, fresh fruit, wine, fishmeal, other minerals, and manufactured goods also were significant sources of foreign exchange.

The Government generally respected the human rights of its citizens; however, problems remained in some areas. There were isolated reports of excessive use of force and mistreatment by police forces, and physical abuse in jails and prisons. Prisons often were overcrowded and antiquated. Detainees often were not advised promptly of charges against them nor granted a timely hearing before a judge. Anti-defamation laws were applied against journalists and authors. Domestic violence against women and violence against children continued to be serious problems. Some trafficking of persons to, from, and within the country reportedly occurred. Indigenous people remained marginalized, and human rights observers questioned the Government's application of the anti-terrorist law to indigenous activists. Child labor was a problem in the informal economy.

The Government, primarily the judiciary, continued to investigate human rights abuses committed during the former military government and, in several cases, passed sentence on those found guilty. In August, the Supreme Court upheld an Appeals Court decision to lift former President Pinochet's judicial immunity, and, on December 13, a judge indicted Pinochet for crimes committed as part of "Operation Condor" in the 1970s. Pinochet's defense immediately filed motions to dismiss on health, mental capacity, and technical grounds. The case remained pending at year's end. Constitutional reforms removing certain constitutional limits on popular rule passed the Senate and were being considered in the Chamber of Deputies at year's end.

RESPECT FOR HUMAN RIGHTS

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

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

A number of cases from previous years, in which the police were accused of unlawful killings due to excessive use of force or mistreatment of prisoners while in custody, remained under investigation or pending resolution of appeals.

In January, Judge Raul Mera began questioning active and retired police officials in the 1988 deaths of Raul Pellegrini and Cecilia Magni, members of the Manuel Rodriguez Patriotic Front. The case had been declared closed twice due to lack of evidence.

The Supreme Court reaffirmed its position that the Amnesty Law (covering human rights violations from 1973 to 1978) and the statute of limitations should be applied only after the circumstances of the crime had been clarified and the guilty party identified. Courts prosecuted a number of cases based on plaintiffs' arguments that the abduction of political prisoners constituted an ongoing crime, not covered by amnesty, unless the subsequent execution of the subject could be established concretely by identification of remains. The State Defense Council (CDE) stated that this interpretation undermines the Amnesty Law, that kidnapping cannot be classified as a permanent or ongoing crime indefinitely, and that judges should end this legal subterfuge and establish a presumption of homicide by other reasonable means. The CDE opinion was not binding, and the Supreme Court has subsequently upheld convictions based on indefinite kidnapping.

The judiciary continued to investigate human rights abuses committed during the former military government and, in several cases, passed sentence on those found guilty. According to the Vicariate of Solidarity (a foundation linked to the Archdiocese of Santiago), at year's end, there were 373 former officials (mostly military officials but including some civilians) charged and under investigation for human rights violations against 642 victims; press reports indicated that, at year's end, 46 former security forces and 19 civilians had been convicted of human rights violations and sentenced.

On August 26, the Supreme Court upheld a May decision by the Court of Appeals to lift former President Pinochet's judicial immunity. On December 13, investigating judge Juan Guzman charged President Pinochet with nine kidnappings and one homicide committed as part of "Operation Condor" in the 1970s. Pinochet's defense immediately appealed, and the case remained pending at year's end.

The Foundation for Social Help of Christian Churches (FASIC), the Corporation for the Promotion and Defense of Human Rights of the People (CODEPU), and other human rights organizations have several denial of justice cases pending before the

Inter-American Commission on Human Rights regarding previously closed disappearance and execution cases. Denial of justice cases based on application of the Amnesty Law also remained pending with the U.N. Commission on Human Rights.

The case of Spanish citizen Carmelo Soria, killed in Santiago in 1976, remained under investigation by a judge in the Sixth Criminal Court of Santiago.

Judge Alejandro Solis continued an investigation of the case of four retired generals and a civilian indicted in 2003 for the 1974 car bombing in Buenos Aires of former Chilean Army commander Carlos Prats. On March 15 and 24, the Court of Appeals reversed a January 29 Court of Appeals decision denying parole to two retired Army officials indicted in the Prats case and set the former officers free on bail. A request from Judge Solis to lift former President Pinochet's immunity in the Prats case was pending with the Santiago Court of Appeals at year's end.

The investigation into the case of retired security officer Rafael Gonzales, charged with the 1973 killing of U.S. citizen Charles Horman, remained open. Gonzales was free on bail at year's end.

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

In 2002, the Ministry of Justice authorized 20 judges to dedicate their time exclusively to historic cases of disappearances and another 51 judges to give preference to the investigation of such cases. At year's end, 373 former officials (mostly military officials but including some civilians) were charged and under investigation for human rights violations against 642 victims, and 14 officials had been sentenced by mid-July.

There were no further developments in the investigations of military-era detentions and disappearances of persons at Colonia Dignidad, a German-speaking settlement 240 miles south of Santiago. Paul Schaefer, founder of the settlement and wanted on charges including the 1994 kidnapping and disappearance of Alvaro Vallejos, remained a fugitive. Schaefer's deputy Gerhard Muecke, arrested in 2000 in connection with Vallejos' disappearance, was reportedly free on bail pending trial.

The investigation into the 1985 disappearance of American citizen Boris Weisfeiler near Colonia Dignidad remained open at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, CODEPU still received isolated reports of abuse and mistreatment by the Carabineros, the Investigations Police, and prison guards.

Few reports of abuse or mistreatment led to convictions. Cases of military and police abuse typically were processed in military, rather than civilian courts, a situation which was denounced by human rights nongovernmental organizations (NGOs) (*see* Section 1.e.). CODEPU was unaware of any case in which a member of the military or police had been convicted on abuse charges.

Unlike in the previous year, there was no report of the mistreatment of military conscripts. The Military Justice investigation of the June 2003 death of conscript Raul Aedo Campos was closed.

During the year, there were instances of violent confrontations between Mapuche groups and local landowners, logging companies, and government authorities in the southern part of the country. The actions took the form of protests and, occasionally, instances of rock throwing, land occupations, and burning of crops or buildings. Several Mapuches were arrested in connection with acts of violence, and, in March, 16 Mapuches were charged with "illicit terrorist association" based upon the Government's invocation of the Anti-terrorist Law (*see* Section 5). On November 4, eight individuals were acquitted; four were released, the other four were remanded to police custody to continue serving sentences for prior convictions. Eight others refused to appear for trial and remained at-large and sought by authorities at year's end.

Prison conditions generally were poor. Prisons often were overcrowded and antiquated, with sub-standard sanitary conditions. According to the Ministry of Justice, there were approximately 37,000 prisoners in prisons designed to hold 23,025 inmates. Criminal and administrative investigations of the September 2003 fire in El Manzano prison facility in Concepcion, which caused 9 deaths and injured 18, continued at year's end. Another non-fatal fire occurred at the same facility in March. In its September report on the fire to the Chamber of Deputies Committee on Human Rights, the Gendarmeria stated that it had invested more than $2.1 million (1.25 billion pesos) to equip national prison system facilities with fire fighting equipment. The Gendarmaria instituted fire-fighting training for prison guards and emergency response plans that it claimed have cut response time to fire and medical emergencies in half.

Food in prisons met minimal nutritional needs, and prisoners were able to supplement their diets by buying food. Those with sufficient funds often could "rent" space in a better wing of the prison.

Although most analysts stated that guards generally behaved responsibly and did not mistreat prisoners, prisoners registered complaints with CODEPU and the courts about beatings and mistreatment of prisoners. An Amnesty International (AI) April 2003 prison visit report recorded similar complaints and noted that overcrowding in prison facilities led to torture and ill-treatment. Prisoners accused guards of using excessive force to stop attempted prison breaks.

The Minister of Interior asked the courts to conduct independent investigations of credible complaints of police abuse, but such investigations often did not result in arrests due in part to the reluctance of judges to pursue the issue vigorously. CODEPU was investigating eight such complaints at year's end. Statistics on complaints of mistreatment and reliable reporting of such instances during the year were not available.

When requested by other human rights organizations or family members, CODEPU lawyers visited detainees during interrogations and represented some persons charged with terrorist acts in court. CODEPU continued to investigate alleged use of excessive force against detainees and particularly was concerned with the treatment of prisoners in maximum-security prisons and prisoners with HIV/AIDS and mental disabilities who allegedly failed to receive adequate medical attention.

In isolated instances, prisoners died due to lack of clear prison procedures and insufficient resources in the prisons. In March, in San Miguel Prison, Hernan Zuleta Sanchez experienced abdominal pains but did not receive timely or appropriate treatment, was placed in solitary confinement, and died early the following day from a burst hernia.

Women generally were held in separate facilities, which tended to be less crowded and with comparatively better conditions than prisons for men.

The law requires that juvenile offenders (those under the age of 18) be held separately from adult prisoners. A Diego Portales University study reported that, in May, the Gendarmeria moved juvenile offenders from the South Santiago prison for men to a reserved section of the Santiago women's prison, and two new juvenile detention centers were opened.

Pretrial detainees generally were not held with convicted prisoners.

The Government permitted prison visits by independent human rights observers, and such visits took place, including regular visits by Catholic and Protestant clerics and Paternitas, a family-assistance NGO. AI and the International Committee of the Red Cross were also granted access to facilities and prisoners.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these provisions. Only public officials expressly authorized by law can arrest or detain citizens. The courts must be advised within 48 hours of the arrest and the detainee placed at a judge's disposition. No one can be held or detained except in their home or a public facility designed for that purpose.

The 27,000-member Carabinero force has primary responsibility for public order, safety, traffic control, and border security. The civilian Investigations Police, composed of approximately 3,600 detectives, is responsible for criminal investigations and immigration control. The Investigations Police, while under the operational jurisdiction of the Ministry of Interior, receive guidance from the prosecutor or judge responsible in a criminal investigation. The police force had an extremely low incidence of corruption. Police, prison guards, and officials take courses in human rights, which are part of the core curriculum in the police and military academies.

The authorities generally respected constitutional provisions for arrest and detention; however, detainees often were not advised promptly of charges against them nor granted a timely hearing before a judge. The Constitution allows civilian and military courts to order detention for up to 5 days without arraignment and to extend the detention of alleged terrorists for up to 10 days. The Constitution allows judges to set bail. Provisional liberty must be granted unless a judge decides that detention is necessary to the investigation or for the protection of the prisoner or the public.

The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. Regular visits by family members are allowed.

The law requires that police inform detainees of their rights and expedite notification of the detention to family members; it also prohibits police from demanding identification from or stopping persons based solely on suspicion and prohibits physical abuse by police against detained persons (*see* Section 1.c.).

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

The judiciary has civil, criminal, juvenile, and labor courts of first instance throughout the country. There are 16 courts of appeal, at least 1 in every region. The Santiago and Valparaiso courts of appeal have several chambers that tend to specialize in a specific area of the law. The 21-member Supreme Court is the court of final appeal. A constitutional tribunal decides whether laws or treaties present conflicts with the Constitution. There is also a Court Martial and Naval Court Martial.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. An office of Public Defender provides professional legal counsel to anyone seeking such assistance. The judicial reform law, which was applied everywhere except in the Santiago greater metropolitan region, provides that national and regional prosecutors investigate crimes and formulate charges, leaving judges the narrower function of weighing the merits of evidence presented to them. Under the new system, three judge panels form the court of first instance. In the Santiago metropolitan region, which was expected to adopt the reform law in June 2005, criminal proceedings remained inquisitorial rather than adversarial. Under the inquisitorial system, a single judge investigates, formulates charges, takes written testimony, and issues rulings. Five-judge panels hear appeals. Under judicial reform, trials are public; under the inquisitorial system, criminal proceedings and most other proceedings were not public due to the written nature of the procedure. However, court records, rulings, and findings were generally accessible to the public.

The Constitution provides for the right to legal counsel, but indigent defendants, who account for the majority of the cases in the Santiago region, did not always receive effective legal representation. They usually were represented by someone from the Government's legal assistance corporation, who was sometimes a law student finishing studies under the supervision of one of the corporation's lawyers. Defendants have a right of appeal. The judicial reform law establishes a presumption of innocence, which the old system does not explicitly provide.

If formal charges are filed in civilian courts against a member of the military, including the Carabineros, the military prosecutor can ask for jurisdiction, which the Supreme Court sometimes has granted. This was of particular consequence in human rights cases from the period covered by the Amnesty Law, since military courts were more inclined to grant amnesty without a full investigation. Military courts have the authority to charge and try civilians for terrorist acts, defamation of military personnel, and sedition. Rulings by military tribunals may be appealed to the Supreme Court. Persons accused of terrorist acts and persons arrested during demonstrations for assaulting a police officer also were brought before military tribunals.

Civilians prosecuted in military courts have the same legal protections as those prosecuted in civilian courts. They are entitled to counsel, the charges are public, the sentencing guidelines are the same (with the exception that the death penalty can be imposed in a military court but not in a civilian court), and the Supreme Court ultimately may hear appeals. The primary difference in the military court system is that a military prosecutor brings the initial charges and conducts the investigation, and the first instance of appeal is in a Court Martial, composed of two civilian and three military judges.

There were no reports of political prisoners, although 57 inmates in Santiago's maximum-security prison, all charged with terrorist acts following the return to democracy, claimed to be political prisoners. In August, the Senate passed a law granting amnesty to 32 of these individuals, freeing those convicted on arms infractions or for illicit terrorist association after 1990.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice, subject to significant legal restrictions. The Government did not restrict academic freedom.

Human rights groups and press associations criticized the existence and application of laws that prohibit insulting state institutions, including the presidency and legislative and judicial bodies, and that allow government officials to bring charges against journalists who insult or criticize them. Military courts may charge and try civilians for defamation of military personnel and for sedition, but their rulings may be appealed to the Supreme Court (*see* Section 1.e.). Media and individuals can also be sued for libel. In July, a Senator filed a civil suit for damages against the Chan-

nel 13 television station and several individuals for airing a television interview naming him in the sexual abuse of a minor. The case was pending at year's end.

The Penal Code prohibits the surreptitious taping or recording of private conversations. A 2003 case involving the first application of the law remained pending at year's end.

Two major media groups controlled most of the print media, which largely were independent of the Government. The Government was the majority owner of La Nacion newspaper, but its editorial content was not under direct government control.

The broadcast media generally were independent of direct government influence. The Television Nacional network is state-owned but not under direct government control. It received no government subsidy and was self-financed through commercial advertising, editorially independent, and governed by a board of directors appointed by the President and approved by the Senate.

The government-funded National Television Council (CNT) was responsible for assuring that television programming "respects the moral and cultural values of the nation." The CNT's principal role was to regulate violence and sexual explicitness in both broadcast and cable television programming content. Films and other programs judged by the CNT to be excessively violent, have obscene language, or have sexually explicit scenes may be shown only after 10 p.m. when "family viewing hours" end. In practice, the ever-increasing volume of programming made the CNT's job difficult. The CNT occasionally levied fines.

The courts may prohibit media coverage of investigations in progress but did so rarely.

The Government did not restrict access to the Internet.

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

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Church and State officially are separate; however, the Roman Catholic Church continued to receive some preferential treatment. All denominations practiced their faiths without restriction.

The law allows, but does not require, religious entities to register as not-for-profit corporations, with attendant tax benefits. The law grants non-Catholic religions the right to have chaplains in public hospitals, prisons, and military units; however, some leaders of the country's Protestant churches (accounting for more than 15 percent of the population) cited the absence of Protestant armed forces chaplains, difficulties for pastors to visit military hospitals, and the predominantly Catholic religious education in public schools as examples of discrimination.

Schools were required to offer religious education twice a week through middle school; however, enrollment in religious classes was optional. The creed requested by parents was supposed to be taught, although enforcement was sometimes lax. Instruction was predominantly in the Roman Catholic faith.

A government challenge to the registration of the Unification Church under new regulations remained pending in the Santiago Court of Appeals at year's end.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and it was not used.

The law includes provisions for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. By year's end, 568 persons residing the country had recognized refugee status. The Government also provided temporary protection to 85 individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. These individuals were eligible for government-funded health care and education while awaiting adjudication, and were supported by the UNHCR and other organizations.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In 2000, voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. Lagos is a member of the center-left Concertacion coalition, which includes his Socialist Party, the Christian Democratic Party, the Party for Democracy (of which Lagos is also a member), and the Radical Social Democrat Party.

The 1980 Constitution, as amended in 1989, includes provisions designed to protect the interests of the military and places limits on majority rule. It provides that various national institutions—including the President, the Supreme Court, and the National Security Council (the latter acting on nominations by the armed forces)—may appoint an additional nine senators (beyond those elected) to 8-year terms and that former presidents have an option to become senators for life, a position that former President Frei occupied. Former President Pinochet resigned his Senate seat in 2002.

In October, the Senate passed constitutional reforms striking provisions that limited the President's right to remove the commanders in chief of the three armed services and the Carabineros, removing all non-elected senators as of 2006, reducing the Presidential term of office from 6 to 4 years, and making the National Security Council a purely advisory body. At year's end, these provisions were pending approval in the Chamber of Deputies.

Transparency International's annual corruption index recorded that the public perceived the country as relatively free of corruption, although such perceptions were somewhat affected by lingering reports of government financial scandals and the revelation of former President Pinochet's secret bank accounts abroad. In May, almost 20 months after bribery charges first were brought, the judge in charge of the investigation convicted President Lagos' former Undersecretary of Transportation, 3 deputies from the government coalition, a former Chief of Cabinet from the Ministry of Public Works, and 3 businessmen from Rancagua and sentenced them to prison terms ranging from 21 days (suspended) to 3 years and 1 day and levied fines ranging from approximately $1,750 to $63,250 (1 million to 36 million pesos) for the crimes of bribery and subornation. Appeals to the Supreme Court remained pending at year's end. A judicial investigation into allegations of Ministry of Public Works involvement in a broader kickback scheme continued at year's end.

The country's Freedom of Information Act requires the Government and its agencies to make all non-classified information about their activities available to the public. The Controller General has noted an increasing tendency for agencies to classify information and has issued guidelines limiting what information should be restricted. All government ministries and most public agencies have web pages, although the amount of information available online varied widely.

There were no impediments to women's participation in government and politics. There were 15 women in the 120-seat Chamber of Deputies, 2 women in the 48-seat Senate, and 3 women in the 16-member cabinet.

Indigenous people have the legal right to participate freely in the political process, although relatively few were active politically. There were no members of Congress who acknowledged indigenous descent. There was one cabinet minister of indigenous origin who resigned to run in the municipal elections.

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

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

Several human rights NGOs faced difficulties, due to limited sources of funding. The Chilean Human Rights Commission, an NGO, is affiliated with the International League of Human Rights. FASIC continued to be active on a range of human rights issues and tracked the status of many human rights cases, particularly those involving the military. CODEPU again operated at greatly reduced levels of activity during the year due to a lack of resources. Many international NGOs also followed human rights issues closely.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equality before the law, and the Government generally respected these provisions. The Labor Code prohibits discrimination based on

race, color, sex, age, nationality, national origin, or social status; however, such discrimination occurred in practice.

Women.—Domestic violence against women was a serious problem. A 2001 University of Chile study, the most current available, indicated that more than half the women in the country had experienced violence in their relationship with their partner. The study estimated that 34 percent of women had been subjected to physical violence (of which 15 percent was sexual violence), and another 16 percent had suffered psychological violence.

The courts may order counseling for those involved in intra-family violence. At year's end, there were 17 government and 8 private centers to attend to victims of intra-family violence. An awareness program to prevent intra-family violence in the country's 13 regions reached 3,000 social workers, 2,000 families, and 2,500 young adults. During the year, the National Women's Service (SERNAM) together with other NGOs conducted courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities.

Rape is a criminal offense. The age for statutory rape was raised from 12 to 14. The law protects the privacy and safety of the person making the charge. SERNAM's latest statistics indicated that 859 cases of rape were reported to the police in the first half of 2003. This number did not include other forms of sexual violence or abuse. Experts believed that a majority of rape cases went unreported.

The Ministry of Justice and the Investigative Police had several offices specifically to provide counseling and assistance in rape cases. A number of NGOs, such as La Morada Corporation for Women, provided counseling for victims of rape.

Adult prostitution is legal; however, police often detained prostitutes (usually as a result of complaints by residents of the neighborhood) on charges of "offenses against morality," which could lead to a $70 (50,000 pesos) fine or 5 days in prison. Procurement or pandering is illegal and punishable under law. Inducing a minor (below age 18) to have sex in exchange for money or other favors is illegal; punishment ranges from 3 to 20 years in prison and a $1,000 (612,000 pesos) fine depending on the age of the minor.

Laws passed in December 2003 specifically targeted child pornography and cyberporn, substantially increasing penalties for these activities. The Investigations Police has a Sexual Crimes Brigade charged with investigating and prosecuting pedophilia and child pornography cases.

There were no laws against sexual harassment, although it generally was recognized as a problem. A SERNAM study in the Greater Santiago area estimated that 11.8 percent of female employees suffered some form of sexual harassment. In industrial and service sectors, more than 20 percent of female employees reported some form of sexual harassment, and a third of female office employees reported harassment. More than half of those interviewed for the study, both male and female, said that sexual harassment in the workplace was frequent or very frequent. Legislation that would provide specific protections against sexual harassment was pending in Congress at year's end.

Women enjoy the same legal rights as men. In November, a Law on Civil Marriage entered into force that allows for civil divorces, although it still imposes lengthy waiting periods between filing for divorce and issuance of a final decree.

A 2001 SERNAM study found that in 1999 the average earnings of women were 77 percent of those of male heads of household. The minimum wage for domestic helpers, probably the largest single category of working women, was only 75 percent of the standard minimum wage (*see* Section 6.e.). Women with university education earned 60 percent of what their male counterparts did. A study during the year suggested that the overall income gap remained at 24 percent in 2003. The Labor Code provides specific benefits for pregnant workers and recent mothers, including a prohibition against dismissal; these also apply to domestic workers. Employers may not ask women to take pregnancy tests prior to hiring them, although La Morada received reports that the practice continued in some companies.

There were 25 registered NGOs working on women's issues. The top five were La Morada, Study Center for Women's Development (CEDEM), the Women's Institute (Instituto de la Mujer), Movement pro-Chilean Women Emancipation (MEMCH), and Information and Communication among Women Service (ISIS International). La Morada engaged in political activism aimed at overcoming gender discrimination by modifying sexist political and cultural patterns. CEDEM worked in rural areas and provided training and consulting to different women's organizations to implement social and economic development programs. The Women's Institute advocated for women's rights and political participation. MEMCH promoted personal development of women. ISIS International coordinated a network of women's organizations devoted to defending and promoting women's rights.

Children.—The Government is committed to children's rights and welfare.

Education is universal, compulsory, and free from first through twelfth grade. In 2002, the median level of education was 10 years but varied regionally and across age groups. Three-quarters of the population had completed primary education (8 years), 61 percent had secondary education (12 years), and 17 percent had university or advanced technical education.

The Government provided basic health care through a public system, which includes regular checkups, vaccinations, and emergency health care. Boys and girls had equal access to medical health care.

Violence against children was a serious problem. A 2003 study by the Citizens' Peace Foundation indicated that 60 percent of 2,150 children between the ages of 7 and 10 surveyed had suffered some type of aggression against them or their belongings either inside or outside their homes.

The National Minors Service (SENAME) noted that, in the first 6 months of 2003, it had handled 28,642 cases of mistreated children; 4,158 of these cases involved sexual abuse or grave physical harm. SENAME lawyers received specialized training in child abuse cases.

Child prostitution was a problem (*see* Section 5, Trafficking).

Child labor in the informal economy was a problem (*see* Section 6.d.).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and persons may have been trafficked to, from, and within the country.

The law criminalizes promoting the entry into or exit from the country of persons for the purpose of facilitating prostitution, with penalties of up to 3 years in prison and a fine of $600 (430,000 pesos). Sanctions are increased in a number of circumstances, including cases in which the victim is a minor; in which violence or intimidation is used; deception or abuse of authority is involved; the victim is related or under the tutelage of the perpetrator; or advantage is taken of a victim's circumstances or handicap. The Penal Code criminalizes the prostitution of children and corruption of minors, and the age of consent for sexual relations is 14 years. A 2003 law criminalizes obtaining sexual services from a minor in exchange for money or other considerations.

The Government was investigating several cases of commercial sexual exploitation, most of which involved small local groups or individuals acting alone; however, there were no convictions.

There were no statistics available on the extent of trafficking. There are laws controlling migration, criminalizing sexual trafficking and regulating working conditions, but no integrated legislation or designated lead agency on trafficking in persons. A 2003 study conducted by SENAME and Arcis University concluded that more than 3,700 children and adolescents had been the victims of commercial sexual exploitation in 2002–03, but many knowledgeable observers considered that number too low.

Within the country, victims reportedly were trafficked from rural areas to such urban areas as Santiago, Iquique, and Valparaiso. Law enforcement authorities stated that victims were trafficked to neighboring countries (Argentina, Peru, and Bolivia), the United States, Europe, and Asia. Victims reportedly entered the country from Peru, Argentina, and Bolivia, although it was difficult to distinguish trafficked persons from economic migrants.

Anecdotal reports suggested that young women were the primary targets for trafficking to other countries. Traffickers reportedly used newspaper advertisements for models and product promoters to lure girls, age 11 to 17, into the sex trade. Law enforcement agencies indicated that traffickers looking for children also targeted economically disadvantaged families, persuading the parents that they were giving the child an opportunity for a better life.

The Government employed various measures to educate the general population on trafficking. The SENAME, the ministries of Government and Health, and other government agencies formed the Protect Network to offer public awareness and education campaigns to prevent sexual violence and abuse, although none was focused specifically on trafficking. Nearly 80 percent of SENAME's budget supported NGO programs, particularly those that work with street children. Organizations such as Mother's Centers and SENAME also offered support programs to prevent trafficking.

Persons With Disabilities.—The law promotes the integration of persons with disabilities into society, and the Government's National Fund for the Handicapped had a small budget to encourage such integration; however, persons with disabilities still suffered some forms of legal discrimination. Although the law mandates access to buildings for persons with disabilities, by year's end, 74 percent of the buildings in the country failed to meet that requirement (79 percent in the Santiago metropoli-

tan area). The public transportation system did not provide for wheelchair access, and subway lines in the Santiago metropolitan area provided facilitated access for persons with disabilities only in some areas.

Indigenous People.—The 2002 census recorded that there were approximately 692,000 self-identified people of indigenous origin (4.6 percent of the total population). The Mapuches, from the south, accounted for approximately 85 percent of this number. There were also small Aymara, Atacameno, Rapa Nui, and Kawaskhar populations in other parts of the country. Indigenous leaders contended that the census underreported the number of indigenous people.

The law gives indigenous people a voice in decisions affecting their lands, cultures, and traditions and provides for eventual bilingual education in schools with indigenous populations. Approximately one-half the population that identifies itself as indigenous remained separated from the rest of society, largely due to historical, cultural, educational, and geographical factors. In practice, both internal factors and governmental policies limited the ability of indigenous people to participate in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous people also experienced some societal discrimination.

The National Corporation for Indigenous Development, which included directly elected indigenous representatives, advised and directed government programs to assist the economic development of indigenous people. Congress did not act on recommendations made in October 2003 by the Commission for Truth and New Treatment to recognize indigenous people in the Constitution and mandate indigenous representation in the Congress and local governing bodies.

Land occupations and other acts of violence by Mapuche groups sharply decreased from previous years (*see* Section 1.c.). The authorities tried many of those charged with attacks on property under anti-terrorist legislation.

In October, Human Rights Watch issued a report that criticized the Government for prejudice in applying the Anti-terrorist Law to Mapuche activists, citing the law's restriction of due process and harsher penalties for crimes already covered under the Civil Code. The report also alleged excessive use of police force against Mapuche activists and called for an end to the practice of trying civilian-related cases (assault and police brutality) in military tribunals. In 2003, the U.N. Special Rapporteur for the Human Rights and Fundamental Liberties of Indigenous People reported on the economic and social marginalization of indigenous communities and the criminalization of indigenous social protest movements by means of the application of the Anti-terrorist Law. The Rapporteur recommended the judicial review of cases affecting Mapuche leaders. By year's end, the Government had taken no action explicitly responding to the Report.

In March, the Government charged Aniceto Norin Catriman and Pascual Pichon Paillalao, Mapuche community leaders, and Patricia Troncoso, a supporter of the movement, with offenses under the Anti-terrorist Law. The initial trial absolved all three defendants due to a lack of evidence. In a September retrial ordered by the Supreme Court, the two men again were found innocent of the charge of "terrorist arson" but sentenced to 5 years and 1 day of prison for terrorist threats. Patricia Troncoso was absolved of all charges.

A 2003 court martial dropped charges against a Carabinero major of unnecessary violence in connection with the 2002 killing of a Mapuche activist.

Section 6. Worker Rights

a. The Right of Association.—Workers have the right to form and join unions without prior authorization, and approximately 10 percent of the total work force (estimated at 5.9 million) was unionized. Police and military personnel may not organize collectively. Members of unions were free to withdraw from union membership. The law prohibits closed union shops.

The law protects workers against employer anti-union discrimination and sets fines for unfair labor practices (from roughly $500 (300,000 pesos) to $7,800 (4.5 million pesos). Employers must reinstate employees fired for union activity. Fired workers can choose between reinstatement or a court-determined severance package of up to 11 months' pay.

b. The Right to Organize and Bargain Collectively.—Temporary workers—defined in the Labor Code as those in agriculture and construction, as well as port workers and entertainers—may form unions, but their right to collective bargaining is limited. The modification of the Labor Code contains reforms aimed at facilitating collective bargaining in the agricultural sector but it remained dependent on employers agreeing to negotiate. Inter-company unions were permitted to bargain collectively only if the individual employers agreed to negotiate under such terms.

Employees in the private sector have the right to strike; however, the Government regulated this right, and there were some restrictions.

The law permits replacement of striking workers, subject to the payment of a penalty that is distributed among the strikers. Public employees do not enjoy the right to strike, although government teachers, municipal, and health workers have gone on strike in the past. The law proscribes employees of some 30 companies—largely providers of essential services (e.g., water and electricity)—from striking; it stipulates compulsory arbitration to resolve disputes in these companies. There was no provision for compulsory arbitration in the public sector. Strikes by agricultural workers during the harvest season were prohibited. Employers must show cause and pay severance benefits to dismiss striking workers.

Labor laws applied in the duty free zones; there were no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution and the Labor Code prohibit forced or compulsory labor, and there were no reports that such practices occurred. The Labor Code does not specifically prohibit forced or compulsory labor by children, and child prostitution was a problem (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law restricts child labor; however, it was a problem in the informal economy. The law provides that children between the ages of 15 and 18 may work with the express permission of their parents or guardians, but they must attend school, and 15-year-olds only may perform light work not requiring hard physical labor or constituting a threat to health and childhood development. Additional provisions in the law protect workers under 18 years of age by restricting the types of work open to them (for example, they may not work in nightclubs) and by establishing special conditions of work (they may not work more than 8 hours in 1 day). The minimum age to work in an underground mine is 21 years; special regulations govern the ability of 18- to 21-year-olds to work at other types of mining sites.

Labor inspectors enforced these regulations, and compliance was good in the formal economy; however, many children were employed in the informal economy. In April, the Ministry of Labor and the International Labor Organization completed and released the first National Survey on Children and Adolescent Activities. The Survey revealed that, as of February 2003, approximately 200,000 children between the ages of 12 and 19 worked; that 3 percent of all children and adolescents (107,680) worked under unacceptable conditions; that, among working children, those between the ages of 5 and 14 worked an average of 18.5 hours a week; and that adolescents worked an average of 39.5 hours. Children sold chewing gum on the street, washed windshields, worked as street performers, begged, or helped their parents to harvest crops. There were 189 registered cases of the worst forms of labor, 70 percent of which affected teenage boys between the ages of 15 and 18.

SENAME, in coordination with labor inspectors, has a system for identifying and assisting children in abusive or dangerous situations. The Ministry of Labor convenes regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor. SENAME has 2 programs for exploited child workers in Santiago and 1 in Valparaiso, serving roughly 200 children a year.

e. Acceptable Conditions of Work.—The minimum wage is set by law, and is subject to adjustment annually. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. The minimum wage at year's end was approximately $196 (120,000 pesos), a 3.8 percent nominal increase from the previous year. This wage, designed to serve as the starting wage for an unskilled single worker entering the labor force, did not provide a worker and family with a decent standard of living. The minimum wage for domestic servants was 75 percent of that for other occupations (*see* Section 5).

The law sets hours of work. The legal workweek is 6 days or 48 hours. Rule changes mandated reduction of the workweek to 45 hours beginning January 1, 2005. The maximum workday length is 10 hours (including 2 hours of overtime pay), but positions such as caretakers and domestic servants are exempt. All workers enjoy at least one 24-hour rest period during the workweek, except for workers at high altitudes who may exchange a work-free day each week for several consecutive work-free days every 2 weeks.

The law establishes occupational safety and health standards, which were administered by the ministries of Health and of Labor and effectively enforced. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. Workers who remove themselves from situations that endanger their health and safety have their employment protected if a real danger

to their health or safety exists. Labor inspectors from the Labor Directorate are responsible for determining whether such dangers exist.

COLOMBIA

Colombia is a constitutional, multiparty democracy. In 2002, voters elected independent candidate Alvaro Uribe president and selected a bicameral legislature with a mix of Liberal, Conservative, and independent members. Internal armed conflict continued between the Government and terrorist groups, particularly the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC). The conflict caused the deaths of between 3,000 and 4,000 persons during the year, including combat casualties, political murders, and forced disappearances. The civilian judiciary is largely independent of the executive and legislative branches; however, it was overburdened, inefficient, and subject to intimidation and corruption.

The civilian-led Ministry of Defense is responsible for internal and external security and oversees both the police and the armed forces, including the army, air force, and navy. The National Police shared law enforcement duties with the Administrative Department of Security (DAS) and the Prosecutor General's Corps of Technical Investigators (CTI). The police are responsible for order and security in urban areas. The armed forces are responsible for national defense and security in rural areas, and support the police in urban areas when called upon. Although civilian authorities generally maintained effective control of the security forces, there were instances in which members of the security forces committed human rights abuses. Police and military forces continued to take steps to improve their human rights record; however, some members of the security forces violated human rights in defiance of government policy.

The country has a diverse market-based economy and a population of approximately 44 million. Crude oil, coal, coffee, and cut flowers are the country's principal legal exports. Drug trafficking has created a large illicit economy. Economic growth for the year was estimated at 3.8 percent, while inflation measured 5.5 percent. Income distribution was highly skewed, with 59 percent of the population living in poverty. Unemployment fell to 11.7 percent and per capita gross domestic product rose to $2,015.

Although serious problems remained, the Government's respect for human rights improved in some areas. While nongovernmental organizations (NGOs) claimed that the security forces' share had increased, the percentage of total human rights abuses reported attributed to security forces was low; however, some members of the security forces continued to commit serious abuses, including unlawful and extrajudicial killings and forced disappearances. Some members of the security forces continued to collaborate with the terrorist AUC, which committed serious abuses. Police, prison guards, and military forces mistreated detainees. Conditions in the overcrowded and underfunded prisons were harsh, and prisoners frequently relied on bribes for favorable treatment. There were allegations of arbitrary arrests and detentions, and prolonged pretrial detention remained a fundamental problem. Impunity remained at the core of the country's human rights problems. The civilian judiciary was inefficient, severely overburdened by a large case backlog, and undermined by corruption and intimidation. Despite prosecutions and convictions of some members of the security forces, no high-ranking officers were convicted of human rights offenses.

The authorities sometimes infringed on citizens' privacy rights. Three journalists were killed during the year, and journalists continued to work in an atmosphere of threats and intimidation, primarily from terrorist groups, but also in some instances from corrupt local officials. Journalists practiced self-censorship to avoid reprisals. There were some restrictions on freedom of movement within narrowly defined geographic areas, generally because of security concerns.

Violence and instability displaced at least 137,000 civilians during the year, and the total number of internally displaced persons (IDPs) may have exceeded 2 million, including 800,000 children. There were reports that members of the security forces harassed members of human rights groups. Violence and extensive societal discrimination against women, child abuse, and child prostitution remained serious problems. Trafficking in women and girls for the purpose of sexual exploitation was a problem. Extensive societal discrimination against indigenous persons and minorities continued. Child labor was a widespread problem.

Despite a unilateral cease-fire declared by the AUC to facilitate demobilization negotiations with the Government, paramilitaries continued to commit numerous political killings—including of labor leaders. Paramilitaries often kidnapped and tortured suspected guerrilla sympathizers prior to executing them. Paramilitaries interfered with personal privacy in areas where they exercised de facto control, forcibly displaced thousands of innocent civilians, and engaged in military operations that endangered civilian lives. Paramilitaries also threatened and attacked human rights workers and journalists who criticized their illegal activities and continued to employ child soldiers. Despite paramilitary cease-fire violations committed throughout the year, the overall level of paramilitary violence continued to decline.

FARC and ELN terrorists were responsible for a large percentage of civilian deaths attributable to the internal armed conflict. Guerrillas, particularly the FARC, committed hundreds of intentional illegal killings and killed and injured hundreds of civilians in random terrorist bombings and landmine incidents. The FARC also continued to kidnap, torture, and murder off-duty members of the public security forces. The FARC engaged in a concerted campaign to destabilize municipal governments by killing local officials and threatening to execute others. The FARC and ELN kidnapped hundreds of civilians to help finance subversion and put political pressure on the Government. Guerrillas caused mass displacements both intentionally and as by-products of military offensives and engaged in widespread recruitment of child soldiers. The FARC and ELN announced a policy of strategic cooperation to combat the security forces and declared that neither group would enter peace negotiations with the Government. FARC and ELN terrorists threatened and attacked human rights activists. They also engaged in widespread recruitment of minors and used female conscripts as sex slaves.

During the year, there were significant improvements in several human rights indicators. Killings decreased by 16 percent, terrorist massacres by nearly 50 percent, killings of trade union leaders by 25 percent, kidnappings by 42 percent, and according to government figures, forced displacements by over 37 percent. In November and December, government negotiators succeeded in demobilizing nearly 3,000 fighters from 5 separate AUC paramilitary blocs. Hundreds of municipal officials returned to their municipalities after the Government established a permanent police presence in every urban center in the country.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary and Unlawful Deprivation of Life.—Political and unlawful killings remained an extremely serious problem, and there were periodic reports that members of the security forces committed extrajudicial killings. The National Police registered 19,010 killings during the year, a 16 percent decrease from 2003 and the lowest number of killings in 18 years. The city of Medellin, once notorious for its high murder rates, registered a 40 percent decline in killings to their lowest level in 25 years.

The Jesuit-founded Center for Popular Research and Education (CINEP), a prominent local human rights NGO, claimed there were at least 382 political murders and extrajudicial killings, committed by all actors, during the first 6 months of the year. The Government's Presidential Program for Human Rights reported that 238 persons died in 43 massacres, committed by illegal armed groups, through November, a 49 percent decrease in the number of victims from 2003.

According to CINEP, state security forces were responsible for 124 extrajudicial killings during the first 6 months of the year. For example, according to local NGO Reinciar, on July 26, army soldiers killed Mauricio Tote, a member of the now-defunct leftist Patriotic Union (UP) political party, in Popayan, Cauca Department. Most of the incidents cited by CINEP were under investigation by military or civilian authorities at year's end. Civilian courts tried an increasing number of cases of military personnel accused of human rights violations (*see* Section 1.e.). Investigations of past killings proceeded slowly.

Through August, the Office of the Inspector General (Procuraduria) had charged 19 members of the Armed Forces with human rights offenses. As in the previous year, the Office continued to refer all cases involving human rights violations to the Prosecutor General for criminal investigation.

On May 16, the Inspector General's Office ordered the symbolic dismissal from the Armed Forces of retired army Lieutenant Colonel Jorge Plazas, who was ruled responsible for participating in forced disappearances, kidnapping for ransom, and obstruction of justice. In 2002, Plazas was sentenced to 40 years in prison by a civilian criminal court after being convicted for the 1998 kidnapping and murder of a promi-

nent businessman. In July 2003, he escaped from a military detention facility in Bogota and was still at large at year's end.

As of September, the Human Rights Unit of the Prosecutor General's Office (Fiscalia) had issued preventive detention orders for nine members of the Armed Forces for human rights violations or paramilitary collaboration. However, for various reasons, including lack of resources for investigations, lack of protection for witnesses and investigators, lack of coordination between government entities, and, in some cases, obstruction of justice by individuals, impunity continued to be widespread.

On March 19, a patrol from the army's Boyaca Battalion killed seven policemen and four civilians in an ambush in the municipality of Guaitarilla, Narino Department. The criminal investigation was assigned to the military justice system, and the Inspector General's Office opened a parallel disciplinary investigation. On August 30, the Inspector General's Office charged five officials with negligence and official misconduct. On December 15, the Superior Military Tribunal reversed a September 10 decision by military investigators to close the criminal case and ordered that the case be investigated further.

On April 10, members of the army's Sixth Brigade killed a family of five in the municipality of Cajamarca, Tolima Department, during a military operation against the FARC. The soldiers admitted to firing mistakenly on the civilians. In November, the Supreme Council of the Judiciary (CSJ) reversed an earlier decision taken in June and granted the civil justice system jurisdiction over the case. The investigation continued at year's end.

On August 5, soldiers from the army's 18th Brigade shot and killed three trade union members outside a home near Saravena, Arauca Department. In September, the Prosecutor General's Office ordered their arrest and asked the Army to formally suspend the soldiers until the case was resolved. The investigation continued at year's end.

On August 28, a small group of leftist legislators denounced an alleged plot to assassinate leftist politicians and labor leaders known as "Operation Dragon." The plot allegedly involved members of the military. An investigation by the Prosecutor General's Office was ongoing at year's end.

On August 31, two policemen were killed in a "friendly fire" incident in Floridablanca, Santander Department when an elite government antikidnapping unit (GAULA) of the Army mistakenly attacked police during an antinarcotics operation. The Prosecutor General's Office, with the support of the military justice system, opened an investigation that continued at year's end.

The Procuraduria and the military penal justice system continued separate investigations into the 2002 deaths of Florentino Castellanos and his 9-year-old son during a military operation near the town of Cantagallo, Bolivar Department.

The Office of the Prosecutor General continued to gather evidence against eight members of the army's Ninth Brigade, including a colonel and a captain, for the 2002 killing of a FARC deserter.

On January 30, a court sentenced army Sergeants Sandro Fernando Barrerro and Humberto Blandon to 40 years in prison for the 2000 kidnapping and murder of Uberney Giraldo and Jose Evelio Gallo, demobilized ELN guerrillas associated with the political Socialist Renewal Movement.

On January 22, the Prosecutor General's Office ruled there was insufficient evidence to charge Brigadier General Alvaro Velandia with involvement in the 1987 murder of M-19 guerrilla Nydia Erika Bautista. By year's end, there was no ruling on the Office of the Inspector General's appeal of a decision by the Council of State to overturn the Inspector General's order that the military dismiss the general.

There continued to be credible reports that some members of the security forces cooperated with illegal paramilitaries in violation of orders from civilian leaders, including the President, and the military high command (*see* Section 1.g.). Such collaboration often facilitated unlawful killings and sometimes may have involved direct participation in paramilitary atrocities. For example, according to Amnesty International (AI), the May 19 paramilitary massacre of 11 peasant farmers in the municipality of Tame, Arauca Department, took place during large-scale military operations in the area.

Impunity for military personnel who collaborated with members of paramilitary groups remained a problem. However, there was progress in several cases related to military collusion with paramilitaries. For example, on September 16, the Prosecutor General's Office arrested Captain Ruben Blanco for "lending counsel and security to individuals linked to paramilitary groups," after paramilitary chief Elkin Casarrubia was found hiding in Blanco's home in Medellin.

The criminal trial of former Brigadier General Jaime Uscategui continued during the year. On October 6, the Criminal Chamber of the Supreme Court, citing security

concerns, agreed to transfer the case from Villavicencio, Meta Department, to Bogota. The trial in absentia of former army colonel Hernan Orozco, who testified against Uscategui in an earlier military trial, also continued.

On September 14, the Inspector General's Office upheld administrative sanctions against three military officers—retired Rear Admiral Rodrigo Quinones, Captain Oscar Eduardo Saavedra, and Captain Camilo Martinez—for failing to prevent the 2001 paramilitary massacre of 27 persons in the village of Chengue, Sucre Department. The Inspector General also upheld the dismissal of two noncommissioned officers (NCOs), Rafael Euclides Bossa and Ruben Dario Rojas, for providing weapons to the paramilitaries who committed the massacre.

On December 27, the Inspector General's Office absolved retired Navy Rear Admiral Rodrigo Quinones of responsibility for the 2000 paramilitary massacre in the El Salado neighborhood of Las Ovejas, Bolivar Department, in which 38 persons were killed. The Inspector General's Office ordered the dismissal of Captain Hector Martin Pita and a symbolic 50-day suspension of retired Colonel Carlos Alberto Sanchez for their negligence in the case.

On April 12, the Office of the Inspector General ordered the 90-day suspension of Colonel Rafael Alfonso Hani for his failure to protect adequately the civilian population near Buga, Valle del Cauca Department, from paramilitaries atrocities while he commanded the army's Palace Battalion in the city during 1999.

On July 26, the Administrative Tribunal of Cundinamarca Department ruled that the Government should pay approximately $20 million (50 billion pesos) to 120 families of victims of the 1999 paramilitary massacre near La Gabarra, Norte de Santander Department, because both the police and army failed to take measures to prevent it.

On March 4, the Prosecutor General's Office closed its case against General Rito Alejo del Rio for lack of evidence. Del Rio had been arrested by the Prosecutor General's Office in 2001 for his alleged role in the formation of paramilitary groups in the Uraba region of Antioquia Department in the mid-1990s.

On August 12, the Inspector General's Office recommended that 8 members of the Army be tried criminally and convicted for participation in the deaths of 10 persons in Huila Department between 1993 and 1994. Those under investigation included Colonel Jose Ancizar Hincapie and Captain Enrique Bernardo Camacho.

The Inter-American Commission on Human Rights continued to broker a settlement of the UP party's 1996 complaint that charged the Government with "action or omission" in the murders of nearly 3,000 UP and Communist Party members in the 1980s and 1990s. Negotiations between the Government and UP representatives continued at year's end.

On July 21, the Inter-American Court of Human Rights found that the Government shared responsibility for the murders of 19 merchants by paramilitaries in Puerto Boyaca, Boyaca Department, in 1987. The ruling obligated the Government to fulfill 23 conditions, including publicly recognizing its responsibility for the murders, paying $6.5 million (16.25 billion pesos) in compensation to the victims' relatives, and reopening the criminal investigation.

Paramilitaries committed numerous political and unlawful killings, primarily in areas they disputed with guerrillas and generally in the absence of a strong government presence. According to CINEP, paramilitaries were responsible for at least 304 such killings during the first 6 months of the year. Paramilitaries targeted journalists (*see* Section 2.a.), human rights activists (*see* Section 4), labor leaders (*see* Section 6.a.), indigenous leaders (*see* Section 5), local politicians, and others who threatened to interfere with their criminal activities or showed leftist sympathies. For example, on August 3, suspected paramilitaries in Valledupar, Cesar Department, killed Fredy Arias, spokesman and human rights coordinator for the Kankuamo indigenous tribe (*see* Section 4).

Continuing a trend that began in 2002, paramilitaries committed fewer large-scale massacres than in previous years. According to the Presidential Program for Human Rights, 13 persons died in paramilitary massacres as of August, compared with 18 in 2003, 54 in 2002, and 281 in 2001. However, the Colombian Commission of Jurists (CCJ) blamed paramilitaries for far more massacres, reporting that paramilitaries killed at least 46 persons in massacres through August. For example, on April 18, after several days of threats, paramilitaries reportedly raided the community of Bahia Portete, La Guajira Department, where they tortured and killed at least four members of the indigenous Wayuu tribe, and abducted several others, including children. More than 600 Wayuu sought refuge across the border in Venezuela (*see* Section 2.d.).

Paramilitaries killed many persons they suspected of collaboration with the FARC. For example, in March, paramilitaries killed seven persons in Cravo Norte, Arauca Department and six persons in Tame, Arauca, in May, because they believed

they were FARC collaborators. On October 2, suspected paramilitaries killed Yorbelis Restrepo, a member of the Peace Community of San Jose de Apartado in the latest of many incidents of paramilitary violence perpetrated against the San Jose community. Paramilitaries, as well as some government officials, claimed the community was a front organization for the FARC.

On September 17, presumed paramilitaries killed academic and sociologist Alfredo Correa in Barranquilla, Atlantico Department. Three months earlier, government authorities detained Correa on charges of rebellion and collaboration with the FARC. The charges later were dropped for lack of evidence, and Correa was released a few days before his death. The investigation into this killing continued at year's end (*see* Section 1.d.).

Paramilitaries also killed persons to protect criminal activities. For example, paramilitaries were suspected of killing Carlos Javier Sabogal, the former governor of Meta Department; Euser Rondon, the former mayor of Meta's El Dorado municipality; and former member of Congress Nubia Sanchez. On September 14, their bodies were discovered in an abandoned car in Cundinamarca Department. Sabogal, Rondon, and Sanchez had accused Meta Governor Edilberto Castro of corruption (*see* Section 3).

There were reports that paramilitaries continued to commit "social cleansing" killings of prostitutes, drug users, vagrants, and the mentally ill in city neighborhoods they controlled.

Guerrillas, particularly the FARC, committed hundreds of unlawful killings. According to CINEP, guerrillas were responsible for 135 unlawful killings during the first 6 months of the year. The Presidential Program for Human Rights reported that, as of November, the FARC killed at least 99 persons in massacres, although another 118 persons were killed in massacres in which the perpetrators remained unidentified.

Among those primarily targeted by guerrillas were local elected officials, candidates for public office (*see* Section 3), religious leaders (*see* Section 2.c.), alleged paramilitary collaborators, and members of the security forces. The FARC also continued its attempts to assassinate President Uribe.

Many FARC atrocities were related directly to drug trafficking activities. For example, on January 5, the FARC killed eight coca pickers in the municipality of Pensilvania, Caldas Department, for failing to pay FARC taxes. On June 15, the FARC killed 34 coca pickers who allegedly worked for rival paramilitary drug traffickers in the municipality of La Gabarra, Norte de Santander Department. On August 11, the FARC killed another 10 peasants in the Catatumbo region of Norte de Santander Department, presumably over their coca crop.

FARC massacres of members of the public security forces included the July 22 killings of 13 soldiers on a road between Huila and Putumayo Departments and the August 2 killings of 9 members of the police in the municipality of Trujillo, Valle del Cauca Department.

The FARC also killed persons it suspected of collaboration with government authorities or paramilitaries. For example, on July 10, the FARC's Ninth Front killed seven men in San Carlos for allegedly supporting paramilitaries. On September 13, the FARC killed three men in El Libano, Tolima Department, for alleged collaboration with paramilitaries. On December 31, the FARC killed 17 persons, including 4 children, near Tame, Arauca Department, allegedly for being paramilitary supporters.

On August 30, troops captured Jorge Eliecer Martinez "Jeronimo Aljure," a suspected leader of the FARC's 56th Front. Martinez was accused of killing 3 foreign-born indigenous rights activists and at least 69 others. The case continued at year's end.

FARC deserters reported that guerrilla leaders threatened to execute fighters who attempted to desert.

b. Disappearances.—Forced disappearances—many of them politically motivated—continued to be a problem. The law specifically defines forced disappearance as a crime. CINEP reported 65 cases of forced disappearance during the first 6 months of the year, and accused the security forces of direct responsibility for 17. The U.N. Working Group on Enforced or Involuntary Disappearances reported in 2003 that there had been at least 1,114 forced disappearances since 1981, 850 of which remained unresolved.

On November 3, the Prosecutor General's Office charged three members of the National Police with the forced disappearance and subsequent death of Ruben Suarez, who disappeared from a police station in Susa, Cundinamarca Department, on April 20. The three also were suspected of stealing $80,000 (200 million pesos) that Suarez was carrying when he was detained.

Paramilitaries were responsible for most forced disappearances. According to CINEP, paramilitaries committed at least 48 forced disappearances during the first 6 months of the year, compared with 130 in 2003. Paramilitaries often abducted persons suspected of collaboration with guerrillas; almost all of these persons were presumed dead (*see* Section 1.a.). For example, on June 22, paramilitaries forcibly kidnapped and killed four members of the indigenous Wayuu tribe near the town of Maicao, La Guajira Department, for allegedly collaborating with the FARC. Authorities later confirmed that the four had been killed.

Although the number of kidnappings continued to decline, kidnapping, both for ransom and for political reasons, remained a serious problem. According to the Presidential Program for Human Rights, there were 1,250 kidnappings through November, a reduction of approximately 42 percent from the 2,200 kidnappings reported in 2003. GAULAs and other elements of the security forces freed 201 hostages in the first 8 months of the year. However, the Free Country Foundation reported that, despite government efforts, through February, at least 6 persons died in captivity. The government-affiliated Fund for the Defense of Personal Liberty (FONDELIBERTAD) provided assistance to approximately 600 friends and relatives of kidnapping victims.

The Free Country Foundation reported that paramilitaries were responsible for 120 kidnappings through August, or 10 percent of all kidnappings in which a perpetrator was identified. Paramilitaries kidnapped both for ransom and as an expression of power and influence. For example, on June 27, paramilitaries kidnapped former Senator Jose Gnecco and his family in La Guajira Department. Paramilitary leader Rodrigo Tovar "Jorge 40" later released Gnecco after President Uribe excluded Tovar from ongoing peace negotiations with the Government and ordered his arrest. The press reported that Gnecco, a member of a prominent regional family, owed Tovar money.

On July 24, members of the Armed Forces rescued 23 laborers kidnapped by paramilitaries in the municipality of El Desastre de San Diego, Cesar Department.

Kidnapping continued to be an unambiguous, standing policy for both the FARC and the ELN. The Free Country Foundation reported that guerrillas were responsible for approximately 31 percent of kidnappings reported during the first 8 months of the year in which a perpetrator was identified. According to the Foundation, through August, the FARC had kidnapped 213 persons, and the ELN kidnapped 92 persons.

Kidnapping for ransom remained a major source of revenue for both the FARC and ELN. The Free Country Foundation reported that, as of August, there had been 529 kidnappings for ransom during the year, approximately 52 percent of all kidnappings. In addition, the FARC purchased kidnapping victims from common criminals and then negotiated ransom payments with families.

On February 14, members of the ELN posing as paramilitaries kidnapped a man from his home in Casablanca, Tolima Department. A ransom payment was negotiated and paid, but the victim was not freed. Police later arrested members of a criminal gang in Bogota that negotiated on behalf of the ELN. Gang members volunteered that the Casablanca kidnapping victim was killed in spite of the ransom payment. His body had not been recovered by year's end.

On August 31, the ELN kidnapped a computer technician in Bagado, Choco Department. He was released on September 29, after his company paid a ransom of approximately $5,000 (12 million pesos).

On December 24, the FARC's Ninth Front kidnapped eight national tourists at a spa in San Rafael, Antioquia Department. The FARC threatened the families, which prevented the kidnappings from being reported until the following day. By year's end, only one of the hostages had been released.

At least 223 children were kidnapped during the year. On February 10, for example, the FARC kidnapped a 9-year-old girl from a school bus in Candelaria, Valle del Cauca Department. They released her on February 21.

On July 14, after receiving an undisclosed ransom from former Senator Jaime Losada, the FARC released his sons, Jamie Felipe and Juan Sebastian, who were kidnapped from their apartment in Neiva, Huila Department in 2001. Their mother remained in FARC captivity at year's end.

The FARC committed many politically motivated kidnappings, which it then used to discredit the Government or pressure it into a so-called "humanitarian exchange." For example, on February 25, 50 members of the FARC dressed in GAULA uniforms kidnapped 3 persons and injured 4 others during an attempted mass kidnapping conducted at 2 residential buildings in Neiva, Huila Department, where many politically influential persons resided. On August 21, the FARC kidnapped Arquimedes Vitonas, the indigenous mayor of Toribio municipality, Cauca Department, and on August 26, in cooperation with the ELN, kidnapped Orlando Hernandez, the indige-

nous mayor of Ricaurte, Narino Department. The military rescued Hernandez on September 6 (*see* Sections 3 and 5). The FARC also kidnapped members of the public security forces for political reasons. According to the Presidential Program of Human Rights, through November, the FARC had kidnapped 11 members of the public security forces. On December 31, the FARC kidnapped three more police officers in Sipi, Choco Department.

The ELN also kidnapped for political reasons. For example, on July 25, members of the ELN kidnapped Misael Vacca, Roman Catholic Bishop of Yopal, Casanare Department, allegedly because they wanted him to carry a political message to the Government. Vacca was released 3 days later (*see* Section 2.c.). On October 6 in Ciudad Bolivar, Antioquia Department, ELN terrorists kidnapped a woman and her nephew who rumors incorrectly identified as relatives of President Uribe.

On October 11, the Superior Tribunal of Bogota sentenced the members of the ELN Central Command to 39 years in prison for the 1999 hijacking of a passenger airline in Bucaramanga, Santander Department, and the kidnapping of all 46 passengers.

The FARC continued to hold political hostages taken in previous years, including former presidential candidate Ingrid Betancourt; former Senator Jorge Eduardo Gechem; former members of Congress Orlando Bernal, Luis Eladio Perez, and Consuelo Gonzalez; Congresswoman Gloria Polanco; former Governor of Meta department Alan Jara; 12 former regional legislators from Valle del Cauca Department; and at least 4 foreign-born persons. The FARC released several proof-of-life videos during the year, which stirred debate over the possibility of an exchange of hostages for imprisoned members of the FARC. The hostages' families, national and international NGOs, foreign governments, and prominent public figures pressured the Government to cede to FARC demands for an exchange.

On August 18, the Government announced it had sent a message to the FARC on July 23 offering to release 50 FARC members imprisoned for rebellion if the FARC would release its political prisoners. The Government added that released FARC members would have the option of relocating to a "friendly" country or joining the Government's reinsertion program. The FARC rejected the Government's offer. On December 2, the Government unilaterally released 23 members of the FARC imprisoned for rebellion as a sign of good faith intended to bring about a reciprocal gesture from the FARC. On December 17, the Government announced it would not extradite imprisoned FARC commander Ricardo Palmera "Simon Trinidad" to a third country if the FARC released 63 political hostages by December 30. The FARC rejected the Government's offer.

The FARC killed numerous hostages during the year. For example, on September 29, the parents of Daniela Vanegas identified the body of their 15-year-old daughter, who had been kidnapped by the FARC in October 2003 while on her way to school in Bogota. On December 8, the FARC killed Roman Catholic priest Javier Francisco Montoya after kidnapping him in the town of Novita, Choco Department (*see* Section 2.c). There were numerous reports that guerrillas tortured kidnapping victims (*see* Sections 1.c. and 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and criminal law prohibit such practices; however, there were reports that the police, military, and prison guards sometimes mistreated and even tortured detainees. Members of the military and police accused of torture are tried in civilian, rather than military, courts (*see* Section 1.e.). CINEP asserted that as of June 30 the security forces were responsible for 75 incidents of torture.

On April 23, 10 soldiers allegedly threatened and tortured 3 peasants in Cunday, Tolima Department. The Office of the Prosecutor General continued to investigate accusations publicized in 2002 by the Committee in Solidarity with Political Prisoners (CSPP) that members of the Cali GAULA collaborated with paramilitaries in abducting and torturing individuals suspected of involvement in kidnappings.

CINEP reported that, as of June 30, paramilitaries were responsible for at least 44 cases of torture. For example, on January 31, paramilitaries abducted and tortured Ines Pena, a member of the Popular Women's Organization, in Barrancabermeja, Santander Department. She was released a short time later. Many victims of paramilitary killings, such as 11 peasants killed in May in Tame, Arauca Department, showed signs of torture.

Guerrillas also committed acts of torture. The bodies of many persons kidnapped and subsequently killed by guerillas showed signs of torture, and former guerrilla hostages reported severe deprivation, denial of medical attention, and physical and psychological torture during captivity (*see* Section 1.b.). The Ministry of Defense reported that guerrillas tortured, mutilated, and killed captured soldiers and police (*see* Section 1.g). CINEP reported 5 cases of torture by guerrillas as of June 30.

With the exception of new facilities, prison conditions remained harsh, especially for prisoners without significant outside support. Many of INPEC's 8,906 prison guards and administrative staff were poorly trained or corrupt. Severe overcrowding and dangerous sanitary and health conditions were serious problems. Private sources continued to supplement most prisoners' food. INPEC spent an average of approximately $1.50 (3,870 pesos) per day per inmate on food, education, and health care. The high-security prison in Valledupar, Cesar department, was the only penitentiary in the country certified as meeting international standards. Five other facilities were built to the standards, but INPEC decided it would be too costly to fund the auditing and certification processes for them. In other facilities, inmates paid to eat, drink, sleep on a mattress, wash clothes, or make telephone calls, and many were forced to pay protection money to fellow inmates or corrupt prison guards. According to INPEC, overcrowding was the prison system's most serious problem. As of September, the country's prisons and jails held 68,240 inmates, almost 30 percent over their intended capacity of 49,645. According to the National Human Rights Ombudsman's Office, the increasing severity of overcrowding resulted from aggressive government security policies that added inmates at nearly six times previous annual rates. On October 18, local press reported that the medium- and high-security prisons in Valledupar, La Dorada, and Giron faced water shortages, affecting approximately 5,000 inmates. During the year, inmates at the Dona Juana Prison in La Dorada, Caldas Department went on a hunger strike to protest the lack of water.

The Government sometimes failed to prevent deadly violence among inmates. INPEC reported at least 38 violent deaths among inmates during the year, not including suicides. There were five major prison riots between January and August, in which at least seven inmates were injured. Riots were motivated principally by inmates' attempts to force changes in administrative policies. For example, inmates rioted at Bellavista prison in Medellin when INPEC officials attempted to transfer many of them to alleviate overcrowding. The Office of the Prosecutor General continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally.

Male and female prisoners were separated in facilities that held both men and women. There also were dedicated women's prisons. Conditions at women's prisons were similar to those at men's. According to the Criminal Procedure Code, no one under the age of 18 may be held in a prison; juveniles were held in separate facilities operated by the Colombian Family Welfare Institute (ICBF).

There were no separate facilities for pretrial detainees, who made up nearly 60 percent of prison inmates. According to INPEC, 30,356 pretrial detainees were held in overcrowded police jails. Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees difficult (*see* Section 1.d.).

Incarcerated members of illegal armed groups who refused to renounce terrorist affiliations were held separately from members of rival groups and the general prison population. Authorities generally granted incarcerated leaders of these groups substantial autonomy to organize their respective prison wings and structure daily activities. To facilitate conditions for negotiations, the Government allowed some incarcerated leaders to use special communications equipment to maintain contact with terrorists still at large.

Fifty-three prisoners escaped during the year, 13 while on 72-hour passes, 24 because of faulty security, 2 in prison breaks with outside assistance, and 1 from a prison work detail. On November 3, former army Major Cesar Maldonado, who was convicted in 2002 of the attempted murder of former union leader and member of Congress Wilson Borja, escaped from a military prison. As a result, on November 5, the military dismissed four officers responsible for prison security, one of whom was under arrest and facing charges at year's end. Retired Lieutenant Colonel Jorge Plazas, who escaped from the same facility in July 2003 while serving a 40-year sentence for kidnapping and murder, remained at large (*see* Section 1.a.). In October, FARC commander Hernando Buitrago "Julian" escaped from his cell at the headquarters of the Prosecutor General's Office in Bogota. In November, six agents from the Corps of Technical Investigators (CTI) were dismissed and subsequently arrested in connection with the escape. The International Committee of the Red Cross (ICRC) continued to have routine access to most prisons and police and military detention centers. However, the FARC and ELN continued to deny the ICRC access to police and military hostages (*see* Sections 1.b. and 1.g.).

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, there were allegations that authorities detained citizens arbitrarily.

The 125,000 members of the National Police are under the jurisdiction of the Ministry of Defense. The National Police includes special units that focus on intelligence, narcotics, kidnapping and extortion, and rural policing. On February 12, the Government completed its reinstallation of police forces in all of the country's 1,098 municipalities. Police are authorized to execute arrest warrants and detain suspects "caught in the act" or fleeing the scene of a crime. DAS agents have broad intelligence gathering, law enforcement, and immigration control function, as do members of the CTI.

Police, DAS, and CTI officials executed arrest warrants issued by prosecutors based on probable cause. Law enforcement officials also arrested criminals caught in the act or fleeing the scene of a crime. Members of the Armed Forces detained members of illegal armed groups captured in combat but were not authorized to execute arrest warrants. On August 30, the Constitutional Court rejected an antiterrorism law that would have granted the military broader powers to arrest and detain terrorist suspects (*see* Section 1.f.). Law enforcement authorities must promptly inform suspects of the reasons for their arrest and bring suspects before a senior prosecutor within 36 hours of their detention. Prosecutors must rule on the legality of detentions within 72 hours. These requirements were enforced in practice. In the case of most felonies, detention prior to the filing of formal charges cannot exceed 180 days, after which a suspect must be released. In cases of crimes deemed particularly serious, such as homicide or terrorism, authorities are allowed up to 360 days to file formal charges before a suspect must be released. Habeas corpus is available to address cases of alleged arbitrary detention.

Individuals accused of lesser or unintentional crimes have access to bail; bail is generally not available for serious crimes such as murder, rebellion, or narcotics trafficking. The law prohibits incommunicado detention. Suspects have the right to prompt access to counsel of their choice, and public defenders from the Office of the Human Rights Ombudsman assist indigent defendants.

Prominent human rights NGOs complained that the Government arbitrarily detained hundreds of persons, particularly social leaders, labor activists, and human rights defenders. According to CINEP, the security forces arbitrarily detained over 495 persons during the first 6 months of the year. Many of these detentions took place in highly conflictive areas where the military was involved in active hostilities against terrorist insurgents. For example, on July 11, members of the Army detained Edinson Palomino Banguero, local president of the Sintraova labor union, for 11 hours at a police station in the town of Arauquita, Arauca Department.

On June 7, sociologist Alfredo Correa was detained on charges of rebellion and collaboration with the FARC in Barranquilla. He was released due to lack of evidence days before presumed paramilitaries killed him on September 17 (*see* Section 1.a.).

The Government and prominent local NGOs frequently disagreed about how to define an "arbitrary" detention; the Government characterized detentions based on compliance with legal formalities, while NGOs typically applied other criteria.

According to INPEC, there were 30,284 pretrial detainees (nearly 60 percent of prison inmates) held in overcrowded police jails. Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees difficult (*see* Section 1.c.). Trial delays were caused by large numbers of detainees, financial constraints, and staff shortages.

The Government stated it did not hold political detainees, although some prominent NGOs considered captured guerrillas to be detained for political reasons.

Paramilitaries and guerrillas, particularly the FARC and the ELN, continued to take hostages for ransom. The FARC and ELN also kidnapped politicians, prominent citizens, and members of the security forces to use as political pawns in a prisoner exchange (*see* Section 1.b.).

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the suborning and intimidation of judges, prosecutors, and witnesses was a serious problem. The judicial system was also extremely overburdened. The administrative chamber of the CSJ reported that, as of October 2003, the civilian judiciary—including the criminal justice system—suffered from a backlog of at least 102,000 cases. These backlogs led to large numbers of pretrial detainees (*see* Section 1.c.). Impunity remained the greatest challenge to the credibility of the Government's commitment to human rights.

Judicial authorities frequently were subjected to threats and acts of violence. According to the National Association of Judicial Branch Employees, numerous judicial branch employees received threats against their lives, and some judges and prosecu-

tors assigned to small towns worked out of departmental capitals because of security concerns. There were reports that judicial workers were killed during the year. For example, on August 11, unknown assailants shot and killed Ronaldo David Redondo, a former superior court judge and La Guajira Department magistrate, in front of his home in the departmental capital of Riohacha. The crime was under investigation at year's end. On November 13, gunmen shot and killed state attorney Mario Canal on a highway near the city of Popayan, Cauca Department. Canal had been investigating crimes allegedly committed by captured FARC leaders. Witnesses, who were even more vulnerable to intimidation, often lacked faith in the Government's ability to protect them and refused to testify.

The civilian justice system is composed of four functional jurisdictions: Civil, administrative, constitutional, and special. The civil is the largest jurisdiction and handles all criminal, civil, labor, agrarian, and domestic cases involving nonmilitary personnel. In small towns, a single "all-purpose" judge rules on all cases. Specialized circuit courts within the civil jurisdiction try cases involving particularly sensitive crimes, such as narcotics trafficking and terrorism. The Supreme Court is the highest court within the civil jurisdiction and serves as its final court of appeals. In addition to hearing appeals from lower courts, the Supreme Court has original jurisdiction in trials of the President, cabinet ministers, heads of independent government agencies, admirals and generals, and magistrates of the Supreme Court, Council of State, Constitutional Court, and CSJ.

The administrative jurisdiction of the civilian justice system is divided into 27 judicial districts with an equal number of tribunals. Administrative actions such as decrees and resolutions may be challenged in the administrative jurisdiction on constitutional or other grounds. The Council of State is the highest court in the administrative jurisdiction and serves as the final court of appeals for complaints arising from administrative acts.

The Constitutional Court, which is charged with "safeguarding the integrity and supremacy" of the Constitution, is the sole judicial body that encompasses the constitutional jurisdiction of the civilian justice system. It rules on the constitutionality of laws, presidential decrees, and constitutional reforms. The Constitutional Court also may issue advisory opinions on the constitutionality of bills not yet signed into law, and randomly reviews the decisions of lower courts on "tutelas," or writs of protection of fundamental rights, which can be filed before any judge of any court at any stage of the judicial process as a legal defense of last resort. Courts must rule on the validity of a tutela within 10 days. Approximately 195,000 tutelas were before the Constitutional Court for possible review at the end of the year.

The special jurisdiction of the civilian justice system consists of the Justices of the Peace program, designed to encourage alternative dispute resolution at the municipal level, which has been implemented in less than 1 percent of the country's municipalities, and the indigenous jurisdiction, which grants indigenous leaders the right to exercise judicial functions on indigenous reservations in accordance with traditional laws (*see* Section 5.). The CSJ is responsible for the administration and discipline of the civilian justice system. The CSJ is divided into two chambers: Administrative and disciplinary. The administrative chamber supervises the civilian justice system's budget and determines its organization. The disciplinary chamber disciplines judicial officials and resolves conflicts of jurisdiction, such as those between the civilian and military justice systems.

The Supreme Court, the Council of State, the Constitutional Court, and the CSJ are coequal supreme judicial bodies that sometimes issued conflicting rulings and frequently disagreed about jurisdictional responsibilities.

The Office of the Prosecutor General is tasked with investigating criminal offenses and prosecuting the accused. Its human rights unit, which included 11 satellite units in 7 regional capitals, specialized in investigating human rights crimes. The unit's 43 prosecutors—30 in Bogota and 13 throughout the rest of the country—were handling 1,469 cases at year's end.

During the year, Prosecutor General Luis Camilo Osorio created a new internal affairs unit to rid the office of corruption, required officials in especially sensitive positions to submit to polygraph examinations, and summarily dismissed employees suspected of corruption.

The Office of the Inspector General, also known as the Public Ministry, investigates allegations of misconduct by public employees, including members of the state security forces. The Inspector General's Office referred all cases of human rights violations received during the year to the human rights unit of the Prosecutor General's Office.

The civilian justice system is an independent branch of government that uses a Napoleonic legal system incorporating some accusatorial elements. On August 31, the President signed a new Criminal Procedure Code. The new Code changes the

roles of judges, prosecutors, investigators, and defense attorneys, as well as the presentation of evidence in an accusatory criminal justice system. It was scheduled to begin its staggered implementation in the judicial districts of Bogota, Armenia, Pereira, and Manizales in January 2005.

A criminal case begins with a preliminary investigation that can last up to 180 working days. If evidence is found linking a particular individual to a crime, the case moves into a formal investigative stage in which prosecutors have a maximum of 360 working days to file formal charges. Once formal charges are filed, the Government has 35 working days to bring a case to trial. Trials are open to the public. Judges question witnesses directly and determine the outcome of all trials. There are no juries.

An accused is presumed innocent until proven guilty and has the right to timely consultation with counsel. Attorneys from the Office of the Human Rights Ombudsman (*see* Section 4) served as public defenders and are required to represent indigent defendants; however, the Office was overburdened severely. Defendants have the right to be present at proceedings against them, review relevant government evidence, present witnesses and evidence on their own behalf, and confront and question prosecution witnesses. However, most evidence continued to be presented in writing, and judges generally relied on written records, rather than oral argument, to determine guilt or innocence. Defendants have the right to appeal a conviction to a higher court.

The military justice system consists of the Supreme Military Tribunal, which serves as the court of appeals for all cases tried in military courts, and 44 military trial courts. The civilian Supreme Court serves as a second court of appeals for cases in which sentences of 6 or more years in prison are imposed.

The military judiciary may investigate and prosecute active duty military and police personnel for crimes "related to acts of military service." The Military Penal Code specifically defines torture, genocide, massacre, and forced disappearance as crimes unrelated to military service. Serious violations of human rights were considered unrelated to military service and were handled by the civilian justice system. The Military Penal Code specifically excludes civilians from military jurisdiction, and civilian courts must try retired military and police personnel, even for service-related acts committed before their retirement.

The Military Penal Code denies commanders the power to impose military justice discipline on their subordinates and extends legal protection to service members who refuse to obey illegal orders to commit human rights abuses.

Military judges preside over courts-martial without the assistance of a jury. Counsel may represent the accused and call witnesses, but the majority of fact-finding takes place during the investigative stage. Military trial judges issue rulings within 8 days of a court-martial hearing. Representatives of the civilian Inspector General's Office are required to be present at courts-martial.

Criminal procedure within the military justice system is similar to that within the civilian justice system, with the exception that the military justice system has incorporated many accusatorial elements. Defendants are considered innocent until proven guilty and have the right to timely consultation with counsel. A Constitutional Court ruling forbids military attorneys from undertaking defense counsel duties. Defendants must retain counsel at their own expense or rely on public defenders from the Ombudsman's Office.

On August 4, Minister of Defense Jorge Alberto Uribe dismissed the Director of Military Justice, General Jose Camelo, reportedly because of delays in the investigation of high-profile cases. In December, Brigadier General Luis Fernando Puentes took over as Director of Military Justice.

In the first 8 months of the year, the CSJ ruled on eight jurisdictional disputes between the civilian and military justice systems, assigning seven cases to the civilian system and one case to the military justice system. The Ministry of Defense reported—and the Prosecutor General's Office confirmed—that military and police personnel charged by civilian prosecutors routinely were suspended from their duties and placed on half-pay. Officers and NCOs were removed from command duties. Twenty members of the military and 25 police officers were suspended as of August for human rights violations or collaboration with paramilitaries.

The Government did not hold political prisoners, although, as of August, it held approximately 3,917 prisoners accused of rebellion or aiding and abetting insurgency. The Government provided the ICRC access to these prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were exceptions.

Except in exigent circumstances, the law requires government authorities to obtain a warrant signed by a senior prosecutor to enter a private home without the owner's consent. The Ministry of Defense continued training public security forces in legal search procedures that comply with constitutional requirements and human rights standards.

Government authorities generally need a judicial order to intercept mail or monitor telephone conversations, even in prisons. However, government intelligence agencies investigating terrorist organizations sometimes monitored telephone conversations without judicial authorization; such evidence could not be used in court. On August 30, the Constitutional Court struck down a government-backed antiterrorism statute on a procedural technicality. The statute contained provisions that would have authorized government authorities to intercept private communications without judicial authorization in cases related to terrorism. The evidence would have been admissible in court.

In November, the Inspector General's Office upheld on appeal its 2003 decision to order the dismissal from the armed forces of Colonel Mauricio Santoyo, the former commander of the Medellin GAULA. Santoyo had presided over the illegal wiretapping of the telephone lines of over 2,000 individuals and NGOs between 1997 and 2000.

A key component of the Government's "Democratic Security Strategy" to combat terrorism and restore order throughout the country was a network of civilian informants—some paid—who identified terrorist activists and sympathizers. Many national and international human rights groups criticized the network as vulnerable to abuse and a threat to privacy and other civil liberties.

The Government did not prohibit membership in most political organizations; however, membership in private organizations that espoused or carried out acts of violence—such as the AUC, FARC, and ELN—was illegal.

Paramilitaries and guerrillas routinely interfered arbitrarily with the right to privacy. Both groups forcibly entered private homes, monitored private communications, engaged in forced displacement (*see* Section 1.g.) and conscription, and punished family members for alleged wrongdoing by individuals. The FARC, which employed large numbers of female combatants, prohibited pregnancies among its troops and ordered mandatory implantation of intrauterine devices and forced abortions.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—The country's 40-year-old internal conflict—among government forces, a right-wing paramilitary movement, and two leftist insurgent groups—continued. The internal armed conflict, and the narcotics trafficking that both fueled it and prospered from it, were the central causes of violations of human rights and international humanitarian law. Government security forces generally abided by international humanitarian law and respected human rights. The Human Rights Ombudsman's Office reported that 2 percent of complaints it received about violations of human rights and international humanitarian law implicated members of the security forces. However, some members of the security forces violated human rights (*see* Sections 1.a., 1.b., 1.c., and 1.d.).

On November 6, the Air Force killed a 9-year-old girl and injured two others when it strafed a residence it mistakenly believed housed FARC guerrillas. The Air Force was still investigating the incident at year's end.

On May 25, the Administrative Tribunal of Arauca ordered the Government to pay approximately $870,000 (2 billion pesos) to the families of 17 persons killed in the Air Force bombing of the village of Santo Domingo, Arauca Department, in December 1998. The civilian criminal trial of the helicopter pilot, co-pilot, and navigator continued at year's end.

The Government, including military authorities, followed an open-door policy toward the ICRC, allowing free and safe passage to members of impartial humanitarian organizations, even in conflict zones.

On October 24, the Government completed the destruction of its remaining 6,784 undeployed antipersonnel landmines. The Government destroyed over 21,000 landmines between June 2003 and October.

Some members of the public security forces—principally enlisted personnel and NCOs, but also some more senior officials—collaborated with or tolerated the activities of illegal paramilitaries. Evidence suggested there were tacit nonaggression pacts between local military officers and paramilitary groups in some regions, and some members of the security forces actively assisted or sought the assistance of paramilitary groups. However, the military substantially increased offensive actions against paramilitary groups. According to the Ministry of Defense, the security forces captured 4,772 paramilitaries during the year, a 50 percent increase from 2003, and killed 558 paramilitaries in combat, compared with 346 in 2003.

Paramilitaries lost significantly more combatants per confrontation with the security forces than did the FARC or ELN.

Paramilitaries were responsible for numerous violations of international humanitarian law and human rights. Although estimates varied, there were approximately 12,000 paramilitary fighters in the country. The largest and most influential paramilitary organization was the terrorist AUC, which operated as a loose confederation of disparate paramilitary groups.

Formal negotiations between the Government and AUC leaders regarding conditions for paramilitary demobilization continued during the year.

In January, the Organization of American States agreed to verify the paramilitary peace process and established six regional offices that employed several dozen international and national staff. On July 1, the Government formally established a concentration zone in the village of Santa Fe de Ralito, Cordoba Department, where paramilitary leaders could negotiate with government authorities without fear of arrest. In November and December, 2,627 fighters from 5 separate blocs surrendered their arms to government authorities. Among the demobilized were senior AUC commanders Salvatore Mancuso and Hernan Hernandez.

Critics from across the ideological spectrum, including major domestic and international human rights groups, expressed concerns about the legitimacy of the paramilitary demobilization process, the real motivations of the paramilitaries, and the potential for impunity for confessed human rights abusers.

The AUC's December 2002 unilateral cease-fire remained in effect; however, it was not perfectly observed, and some dissident paramilitary groups never agreed to a cessation of hostilities. Power struggles for leadership and control of drug trafficking resources provoked internecine warfare among paramilitary groups. For example, on September 19, fellow paramilitaries allegedly killed AUC Centauros Bloc Commander Miguel Arroyave. Arroyave controlled large swaths of valuable drug trafficking territory in the eastern plains where clashes between several paramilitary blocs caused sharp increases in violence.

Most paramilitary cease-fire violations affected innocent civilians. For example, the Government reported that paramilitaries were responsible for 390 killings of civilians since the December 2002 cease-fire declaration. As of September, the Office of the Human Rights Ombudsman had received complaints about 342 alleged violations of the paramilitary cease-fire in 11 departments, including reports of massacres, kidnappings, selective killings, displacements, robberies, and the recruitment of children. The CCJ claimed there had been at least 1,899 violations of the paramilitary cease-fire since December 2002 (*see* Sections 1.a, 1.b., and 2.d.).

Despite paramilitary cease-fire violations, the overall level of paramilitary violence continued to decrease. Paramilitaries committed fewer selective killings, particularly of vulnerable groups such as trade unionists, fewer massacres, and forcibly displaced fewer civilians. According to CINEP, paramilitaries were responsible for the deaths of 304 civilians through June, a negligible decrease from 2003.

Combat between paramilitaries and guerrillas led to many civilian deaths. For example, on November 25, media reports claimed eight civilians were killed during clashes between paramilitaries and the ELN in Choco Department. U.N. High Commissioner for Refugees (UNHCR) warned that this area was at high risk of paramilitary-guerrilla clashes.

Although the overall number of forced displacements caused by paramilitaries fell, paramilitaries continued to forcibly displace civilians residing along key drug and weapons transit corridors or suspected of harboring sympathies for guerrillas. For example, on April 18, paramilitaries displaced 600 members of the indigenous Wayuu tribe in Bahia Portete, La Guajira Department. Paramilitaries also prevented or limited the delivery of foodstuffs and medicines to towns and regions considered sympathetic to guerrillas, straining local economies and increasing forced displacement (*see* Section 2.d.).

Although paramilitaries continued to employ child soldiers (*see* Section 5), paramilitary groups turned over at least 70 minors to government authorities during the year, either as signs of good faith or as conditions of formal demobilization. For example, on December 18, 26 minors demobilized with the AUC's Calima Bloc.

The 12,500 member FARC and the 2,500 member ELN—both terrorist organizations—declined in numerical strength during the year because of strong pressure from the military that caused high numbers of guerrilla casualties and led to thousands of guerrilla desertions. In many areas of the country, the two guerrilla groups worked together to combat government forces or paramilitaries. On January 11, the ELN announced it would work more closely with the FARC to resist the Government's "Plan Colombia" military offensive. In October, the FARC proposed closer coordination between the two terrorist groups.

The FARC and ELN violated international humanitarian law by committing unlawful killings, kidnapping civilians and military personnel, torturing captives, displacing populations, and recruiting child soldiers (*see* Sections 1.a., 1.b., 1.c., 2.d., and 5.).

Guerrillas were responsible for a large percentage of civilian deaths related to the internal conflict. Combat between guerrillas and state security forces caused numerous civilian casualties. For example, on July 7, an elderly woman was injured during a FARC attack against the security forces in Narino Department. CINEP attributed at least 144 civilian deaths to the FARC and ELN as of June 30.

According to the Ministry of Defense, guerrillas committed 709 terrorist acts during the year. For example, in May, 14 persons were killed and 93 injured when the FARC, in commemoration of the 40th anniversary of its founding, detonated bombs in the cities of Medellin, San Carlos, and Apartado, Antioquia Department. The largest bombing occurred on May 22, when the FARC bombed a popular Apartado nightclub, killing 5 and injuring 93. On August 8, the FARC detonated a bomb during a festival in Medellin, injuring 35. Guerrillas also detonated bombs attached to motorcycles, bicycles, animals, and human cadavers.

Guerrillas used landmines to defend static positions such as base camps and drug labs and as indiscriminate weapons of terror. According to the Vice President's Office, between 70,000 and 100,000 landmines were deployed nationwide, and there were 1,155 registered landmine incidents during the year, a 23 percent increase over 2003. Guerrillas were responsible for over 75 percent of landmine incidents, which killed at least 182 persons. Thirty-six percent of landmine victims were civilians.

Guerrillas failed to respect the injured and medical personnel. Both the FARC and the ELN frequently executed wounded prisoners, threatened and harassed doctors and nurses, and killed enemy combatants receiving medical care. For example, in February, the FARC kidnapped a nurse from her car in Armenia, Quindio Department.

Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes and remove potential government or paramilitary collaborators from strategic zones. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example, the FARC blockaded the towns of San Carlos and San Luis in Eastern Antioquia, and, on July 10, killed seven displaced residents of San Carlos who returned to the city without the FARC's authorization.

According to government figures, attacks against public infrastructure decreased in almost all areas. Large-scale military operations and a permanent police presence in every municipality resulted in a 42 percent decrease in terrorist attacks through November. Most attacks on infrastructure affected roads, electrical towers, and oil pipelines. The Government recorded 116 attacks on electrical towers and 66 on oil pipelines through August, representing decreases of 64 and 17 percent, respectively. An increased military presence and quicker military reactions to threats against the pipeline reduced attacks against the Cano Limon-Covenas pipeline—the country's largest—by 50 percent, to 17. Attacks against communications towers, bridges, and aqueducts fell by approximately 90 percent, 77 percent, and 67 percent, respectively. However, attacks on public highways increased by 27 percent, to 138.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. However, journalists regularly practiced self-censorship to avoid retaliation and harassment by criminals, members of illegal armed groups, and corrupt local officials.

The National Television Commission continued to oversee television programming, although it did not censor substantive content.

The Government did not use libel laws to suppress criticism or engage in direct or indirect censorship of the media. In March, prosecutors formally dropped libel charges filed in June 2003 against newspaper columnist Roberto Posada for publicly insinuating that prominent businessman Pedro Juan Moreno had links to paramilitaries. The media's reliance on government advertising revenues may have reduced its criticism of government actions and policies.

National and international NGOs reported that media representatives regularly practiced self-censorship because of threats of violence from illegal armed groups and common criminals. At least 4 journalists went into voluntary exile during the first 9 months of the year, joining 20 who left the country in 2002 and 2003.

The security forces generally did not subject journalists to harassment, intimidation, or violence; however, there were exceptions, as well as reports of threats and violence against journalists by corrupt local officials. On February 4, for example, unidentified gunmen killed journalist Oscar Alberto Polanco as he departed the tele-

vision station where he worked in Cartago, Valle del Cauca Department. Polanco had used his television show to criticize corrupt local government officials and institutions. In February, Barrancabermeja radio journalist Garibaldi Lopez reportedly received threatening phone calls from persons identifying themselves as friends of local government officials he had denounced for corrupt practices. In September, print journalist Cristian Herrera left the country after receiving threatening phone calls from unidentified persons warning him to stop reporting on violence, petty crime, and corruption in Cucuta, Norte de Santander Department. In June, local police had allegedly threatened Herrera after he and a photographer were discovered photographing a prisoner transfer at the city's airport. Herrera also reported being threatened on other occasions by the city's mayor and police chief. In December, the mayor was arrested for suspected links to paramilitaries.

During the year, journalists were intimidated, threatened, kidnapped, and killed by members of illegal armed groups. According to information gathered by the Colombia Foundation for Press Freedom, as of November, 3 journalists were killed, at least 2 kidnapped, 1 tortured, and at least 37 threatened with death.

Paramilitaries threatened, kidnapped, and killed journalists. On January 28, two paramilitaries kidnapped and tortured Ines Pena, a television announcer and a member of the Popular Women's Organization in Barrancabermeja, Santander Department, and warned her to stop producing her television program (*see* Section 1.c.). On September 9, radio journalist Luis Alberto Castano fled the city of Libano, Tolima Department, after learning that paramilitaries planned to kill him. In September, investigative journalist Claudia Julieta Duque reported receiving telephone threats after investigating possible irregularities in the criminal trial of AUC leader Carlos Castano and alleged paramilitaries Juan Pablo Ortiz and Edilberto Antonio Sierra for their roles in the 1999 murder of prominent journalist Jaime Garzon. On March 10, Castano, who had been tried in abstentia, was sentenced to 38 years in prison. Sierra and Ortiz were acquitted for lack of evidence. On October 15, the bodies of Milton Delgado and Milton Rosero, who hosted local television programs about social issues, were found along a roadway near the municipality of Florida in Valle del Cauca Department.

Guerrillas also threatened, kidnapped, and killed journalists. For example, presumed guerrillas from the ELN's Carlos German Velasco Front posted a notice on the door of a radio station in Cucuta, Norte de Santander Department, identifying journalists Olga Lucia Cotamo, Angela Echeverri, and Fernando Fonseca as military objectives for allegedly sympathizing with government policies. On October 10, members of the FARC's Jacinto Matallana Mobile Column kidnapped television correspondent Luis Carlos Burbano and photographer Mauricio Mesa in the municipality of La Divina Pastora, on the border of Narino and Putumayo Departments. The FARC, which had accused Burbano and Mesa of espionage, released both journalists the following day after reviewing the team's recorded video footage.

In October, the FARC kidnapped a journalist and cameraman from Canal Caracol in Santiago, Putumayo Department.

The International Federation of Journalists operated an office in Bogota to monitor violence against the media and provide assistance to local journalists. The Inter-American Press Association also ran its own rapid action unit in Bogota to help the Prosecutor General's Office investigate crimes against journalists. The Ministry of Interior operated a program for the protection of journalists that provided protection to 20 media representatives during the year. The Ministry of the Interior also supported an alerts network organized for journalists by providing a small number of radios and an emergency telephone hotline.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom. However, paramilitary groups and guerrillas maintained a presence on many university campuses to generate political support for their respective causes and undermine support for their adversaries through both violent and nonviolent means. Paramilitaries killed and threatened university professors and students they suspected of leftist sympathies. For example, on September 17, presumed paramilitaries killed Alfredo Correa, a university professor in Barranquilla. The Department of Administrative Security had arrested Correa on June 17 after an informant identified him as a member of the FARC's Caribbean Front. He had been released in early September after prosecutors concluded there was insufficient evidence to prosecute him.

Guerrillas also killed, threatened, and kidnapped academics and their family members for financial and political reasons. For example, on September 8, the FARC kidnapped biology professor Margarita Escobar and five university students who were conducting field research near the municipality of Urrao, Antioquia department. All six were released on September 12 after the FARC announced that it had verified their academic credentials. Regional government authorities alleged

the kidnapping was financially motivated. In July, the body of Bernardo Ernesto Velez was discovered near Canas Gordas, Antioquia Department. Velez, the brother of Education Minister Cecilia Velez, had been kidnapped by the FARC in 2001.

Guerrillas used university campuses to plan, prepare, and carry out terrorist attacks.

Both paramilitaries and guerrillas regularly threatened and killed public school teachers, especially at the high school level. According to the Presidential Program for Human Rights, through November, 57 teachers were killed and 16 kidnapped.

Paramilitaries and guerrillas targeted teachers because of their vocal opposition to forced recruitment of children by illegal armed groups; their pedagogical, labor, and community leadership; and their alleged dissemination of political propaganda in the classroom. Paramilitaries were responsible for most of these abuses. For example, on February 27, presumed paramilitaries killed teacher Ernesto Rincon, a leader in the local teachers union, in the municipality of Caldas, Boyaca Department. On May 7, presumed paramilitaries killed public school teacher and principal Jesus Alberto Campos in the city of Tame, Arauca Department. On May 18, unidentified individuals killed Isabel Toro after torturing her near the city of Yopal, Casanare Department. On May 26, members of the FARC killed a local teacher in San Andres, Antioquia Department. In April and May, in Tame, Arauca Department, the FARC killed two teachers. Threats and harassment caused many professors and students to adopt lower profiles and avoid discussing controversial topics. Some academics went into voluntary exile.

In conjunction with FECODE and the Ministry of Education, the Presidential Program for Human Rights launched a special initiative to protect at-risk teachers. The program charges regional committees with investigating specific threats against teachers and, in some cases, facilitating at-risk teachers' relocation, with continued employment as educators, within the country.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Freedom of association was limited in practice by threats and acts of violence committed by illegal armed groups against labor unions, indigenous groups, and NGOs (*see* Sections 4, 5, and 6.a.).

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

Although there is no official state religion, most citizens were Roman Catholic, and the Roman Catholic Church retained a de facto privileged status. Accession to a 1997 public law agreement with the State is required for non-Roman Catholic religions to minister to their adherents in public institutions, such as schools and hospitals, and to perform marriages recognized by the State. When deciding whether to grant accession to the 1997 agreement, the Government considers a religion's total membership, its degree of popular acceptance within society, and other relevant factors, such as the content of the organization's statutes and its required behavioral norms. At year's end, 13 non-Roman Catholic religious bodies, including the Evangelical Council of Churches (CEDECOL), an umbrella organization of hundreds of small evangelical churches, were granted accession. No non-Christian religious group was a signatory to the 1997 public law agreement.

Roman Catholicism was taught in public schools, but students had the option of opting out of sectarian religious instruction.

Protestant churches complained that new zoning laws showed de facto favoritism toward Roman Catholicism, since most Roman Catholic cathedrals were constructed before zoning laws were instituted and were therefore were exempt from the laws' requirements.

On November 25, a team of prosecutors and investigators raided a small Taoist commune in a mountainous rural region of Santander Department based on information provided by eight former commune members that the commune's leadership was engaged in illegal activities. The commune's leaders claimed the government raid was part of a larger plot to close down the community. The community's insularity and isolation in a region with a significant guerrilla presence complicated efforts to gather accurate information concerning the allegations. The Government's investigation was ongoing at year's end.

There were isolated reports of anti-Semitism, including graffiti painted on the exterior walls of synagogues and anti-Semitic statements in pamphlets published by small xenophobic organizations.

Both paramilitaries and guerrillas harassed, threatened, and sometimes killed religious leaders and activists, although generally for political, rather than religious, reasons. The Presidential Program for Human Rights reported that illegal armed groups made numerous threats against priests and other religious workers, killed

seven priests, and kidnapped three others. Nearly all these killings were attributed to leftist guerrillas, particularly the FARC. For example, in December the FARC kidnapped and killed Roman Catholic priest Javier Francisco Montoya near the town of Novita, Choco Department.

On July 25, members of the ELN kidnapped Misael Vacca, the Roman Catholic Bishop of Yopal, Casanare Department. The ELN attempted to justify the kidnapping by claiming it had a political message for him to deliver to the Government. Vacca was released 3 days later following an army rescue operation that cut his captors off from the ELN commanders who allegedly prepared the message. Vacca had been involved in peace efforts between the Government, ELN, and right-wing paramilitary groups in Casanare.

There was no ruling in the criminal trial of FARC commander John Fredy Jimenez and hired gunman Alexander de Jesus Zapata for the 2002 killing of Isaias Duarte, the Roman Catholic Archbishop of Cali. In October, paramilitary Jimmy Matutte was sentenced to 32 years in prison for his involvement in the 1999 murder of Catholic priest Jose Luiz Maso and Spanish aid worker Inigo Eguiluz Telleria.

According to the CEDECOL, as of September 30, illegal armed groups had killed 18 evangelical church leaders. The FARC was responsible for 11 of these killings. For example, on September 4, three suspected FARC guerrillas opened fire during a prayer service in the Christian and Missionary Alliance Church of Puerto Asis, Putumayo Department. The gunmen killed 3 and wounded 14 others, including 2 children. The FARC inhibited the right to free religious expression in areas it controlled, forcing the closure of hundreds of evangelical churches, particularly in the southwestern part of the country.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected this right in practice; however, there were exceptions. In areas where counterinsurgency operations were underway, police and military officials sometimes imposed curfews or required civilians to obtain safe-conduct passes. Paramilitaries and guerrillas continued to establish illegal checkpoints on rural highways, although a larger and more visible government security presence along major highways cut kidnappings at illegal checkpoints by 43 percent and led to a major increase in intercity vehicular traffic.

The Social Solidarity Network (RSS), the Government's displaced persons service agency, registered 137,315 displaced persons during the year, down from 219,469 in 2003 and 422,977 in 2002. The Consultancy for Human Rights and Displacement (CODHES), a human rights NGO specializing in displacement issues (*see* Section 4), estimated a smaller decrease in displacements, with 205,500 persons displaced during the first 9 months of the year, compared with 230,000 in 2003. Various explanations were advanced to explain the decline in displacements. The Government noted a larger state security presence throughout the country and a decrease in paramilitary violence related to the Government's ongoing negotiations with the country's largest paramilitary organization. CODHES and other NGOs asserted, however, that instead of displacing peasants, paramilitaries and guerrillas were forcibly preventing displacements. CODHES included as displaced persons coca producers who migrated in response to government drug eradication efforts, which substantially increased CODHES figures.

The RSS had registered more than 1,565,765 displaced persons since 1995; UNHCR estimated that more than 2 million persons in the country had been displaced at one time or another.

Precise numbers of IDPs were difficult to obtain, since both NGOs and the Government reported that some persons were displaced more than once and many did not register with the Government or NGOs. The FARC and ELN discouraged IDPs from registering with the Government through force, intimidation, and disinformation, and guerrilla agents sometimes masqueraded as IDPs to sow doubt and discontent among the displaced population. Most IDPs were rural peasants displaced to large cities such as Bogota. According to the UNHCR, 22 percent of IDPs were indigenous or Afro-Colombian, which was proportionate to their percentage of the overall population. Paramilitaries and guerrillas continued to use forced displacement to gain control over strategic or economically valuable territory, weaken their opponents' base of support, and undermine government control and authority.

The Government was unable to provide sufficient humanitarian assistance to the displaced, despite statutes and court rulings requiring it to do so. Many IDPs lived in unhygienic conditions with little access to health care and educational or employment opportunities. Government assistance for the displaced was provided prin-

cipally through the RSS, the ICBF, and the Ministry of Social Protection. The ICRC provided substantial emergency humanitarian assistance to the displaced: Assistance was provided for the first 90 days following a displacement, after which the Government and other organizations were expected to assist, which did not always occur in practice.

The Constitution provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing assistance to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of an applicant's claim. According to the Government, 237 recognized refugees resided in the country at the end of the year, and 34 persons sought refugee status. The Government approved 18 refugee cases involving 20 individuals. The Government refused 14 requests and 6 were still pending at year's end. The Government reported that no applications for asylum were filed during the year.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, generally free and fair elections held on the basis of nearly universal suffrage. Active duty members of the Armed Forces and police may not vote, and civilian public employees, although eligible to vote, are not allowed to participate in partisan politics; however, legislation passed in November will allow them, beginning in 2006, to participate in partisan politics (including the right to vote) during the 4 months immediately preceding a national election.

In 2002, voters elected a bicameral legislature with a mix of independents and members of the traditional Liberal and Conservative parties. In the 2002 presidential election, voters elected Alvaro Uribe, a dissident Liberal running as an independent. Both elections were generally free and fair, in spite of a concerted campaign by terrorist organizations, such as the FARC and AUC, to disrupt or manipulate the outcome.

Political parties generally operated without government interference. Parties that fail to garner 50,000 votes in a general election automatically are dissolved but can reincorporate at any time by presenting 50,000 signatures to the National Electoral Commission (CNE). However, political reforms approved in November that will take effect in 2006 raised the vote threshold that parties must meet to retain formal status and gain access to government funds. The Liberal and Conservative parties have long dominated politics, but the election of President Uribe as an independent in 2002 and the success of center-left candidates in regional elections suggested the political arena was widening.

The country suffered from endemic corruption and graft in both the public and private sectors, exacerbated by drug trafficking revenues that made corruption as effective a tool as violence for illegal armed groups and large drug trafficking organizations.

According to the Colombian Confederation of Chambers of Commerce "Confecamaras," estimates of income lost to corruption varied between $2.5 million (5.75 million pesos) and $5 million (11.5 million pesos) annually. The World Bank estimated that corruption in government procurement cost the country $480 million (1.1 trillion pesos) annually. Government and private sector analysts agreed that a black market of illegal commissions governed incentives for many business transactions.

The Government continued its Presidential AntiCorruption Program in alliance with the World Bank and 31 public institutions and NGOS. The alliance continued to examine the absence of genuine governance caused by corruption to design appropriate policies. Confecamaras managed programs promoting entrepreneurial and public ethics through corporate centers in the country's main cities.

The Program encouraged the drafting of municipal and departmental transparency pacts, which are public agreements between elected officials and their constituents to implement efficiency and anticorruption programs. Such pacts were signed in the municipalities of Ibague, Tolima Department; Manizales, Caldas Department; and Pasto, Narino Department. The Program also established voluntary committees of private citizens to serve as monitors for the effective implementation of transparency pacts and developed a Culture of Lawfulness teaching module for

the public schools. According to a July 2003 Transparency International survey, citizens considered Congress to be the country's most corrupt public institution.

Corruption related to illegal armed groups was a serious problem. For example, on June 24, Ramiro Suarez, mayor of Cucuta, Norte de Santander Department, was detained by the Prosecutor General's Office for alleged ties to paramilitary groups.

On December 23, the Prosecutor General's Office issued an arrest warrant for Casanare Department Governor Miguel Angel Perez for allegedly receiving $217,000 (500 million pesos) from paramilitary chief "Martin Llanos" to finance his 2003 political campaign.

On March 31, the President of the Senate granted a team from the CTI—the investigative branch of the Prosecutor General's Office—access to the office of the Senate's Human Rights Committee. The warrant-based search was based on allegations that committee staff sold fabricated death threats used by purchasers to bolster petitions for asylum in foreign countries.

The Constitution and laws permit public access to government information. The Constitution allows all persons to access public documents. The Administrative Code addresses the right to access public documents and the right to review government information. The Code also provides for the right to consult public documents and receive expedited copies, unless the information relates to defense or national security and could be used to intimidate or embarrass private citizens.

In 2003, the GOC launched the "Colombia Online" program, which focuses on transparency, efficiency, and clarity in government procurement practices. Increased Internet use helped create a climate of greater transparency by making public the terms of reference of bidding processes and eliminating onerous registration fees.

There were no prohibitive fees to access government information, and there were no reports of serious abuses of the public information system. However, small-scale graft, in which low-level officials insisted on bribes to speed up access to information, was a problem.

Paramilitaries sometimes threatened local officials. For example, on December 2, Evelio Munoz, the mayor of Florencia, Cauca Department, and his 19-member cabinet fled to the departmental capital of Popayan as a result of threats from paramilitaries.

The FARC continued to threaten and commit acts of violence against government officials. The assassination of President Uribe remained a FARC priority. During the first 10 months of the year, 12 former mayors, 1 serving mayor, 1 former governor, and 18 serving city council members were killed. On January 21, suspected FARC operatives killed Marcos Ataya, the former mayor of Arauca City, Arauca Department. On August 27, members of the FARC killed Luis Alberto Zorro, mayor of the town of Chameza, Casanare Department. On August 22, the FARC kidnapped the indigenous mayor of Toribio, Cauca Department (*see* Sections 1.a. and 1.b.). On December 28, in its seventh attempt against his life, the FARC planted a bomb outside the office of Julio Acosta, Governor of Arauca Department.

On October 28, 12 members of the FARC's Teofilo Forero Mobile Column raided the offices of the City Council of Neiva, Huila Department. The assailants killed a guard but were unable to reach council members gathered inside the building.

Scores of other local officials throughout the country resigned because of threats from the FARC. More than 30 mayors who left office in January fled the country or were preparing to do so because of looming death threats. The Office of the Human Rights Ombudsman reported that at least 300 mayors conducted business from regional capitals via telephone and messenger because they were not safe in their own towns. In the first 3 months of the year, 32 city council members were displaced to capitals from their local offices. The Ministry of Interior operated a program for the protection of vulnerable populations that provided protection to 424 mayors, former mayors, and council members during the year.

The FARC continued to hold several dozen politicians hostage to pressure the Government into a prisoner exchange (*see* Section 1.b.).

There were 5 women—including the Minister of Foreign Affairs—in the 13-member cabinet, 11 women in the 102-member Senate, and 20 women in the 166-member House of Representatives, including its new President. There were 2 women on the 23-member Supreme Court, 2 women on the 13-member CSJ, and 1 woman on the 9-member Constitutional Court.

A quota law requires that women be placed in at least 30 percent of nominated government posts, and the Government must report to Congress each year on the percentage of women in high-level government positions.

There were four indigenous Senators, two of whom occupied seats reserved for indigenous persons, and one indigenous member of the House of Representatives. There were no indigenous cabinet members and no indigenous persons on any of the nation's high courts.

There were two Afro-Colombian Senators and three Afro-Colombian members of the House of Representatives. There were no Afro-Colombian cabinet ministers and no Afro-Colombians on any of the nation's high courts.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights conditions in the country. Government officials were cooperative and responsive to their views, although they often differed with NGO analyses of the human rights situation and government compliance with human rights standards.

Over 60,000 human rights and civil society NGOs were registered in the country, although most existed only on paper. The most prominent domestic human rights NGOs included CCJ and the Jose Alvear Restrepo Lawyers' Collective, both of which focused on defending human rights through legal analysis and case work; CINEP, which managed the country's largest and most influential database of human rights violations; the Permanent Committee for the Defense of Human Rights (CPDDH), which provided support and assistance to victims of human rights violations and worked to organize civil society to defend human rights and promote a peaceful resolution to the country's armed conflict; CSPP, which focused on the rights and treatment of persons detained for politically motivated crimes, particularly left-wing subversion; ASFADDES, the country's leading voice in demanding justice for the disappeared; CODHES, which advocated policies designed to prevent displacement and defended the rights of the displaced; the Association for Alternative Social Promotion (MINGA), which sought to promote respect for human rights through education, research, lobbying, and legal assistance; the Permanent Assembly of Civil Society for Peace, which served as a forum for regional and national NGOs to discuss key themes in the agenda for peace and nonviolent alternatives to the armed conflict; and the Free Country Foundation, which provided psychological, legal, and public relations assistance to kidnap victims and their families and lobbied the Government for better antikidnapping efforts. The Truth for Colombia group was a relatively new association of small human rights NGOs that generally supported the Government's antiterrorism security policies

Local human rights NGOs had an influence that far exceeded their membership or resources. By sharing information among themselves and disseminating it to international human rights organizations and the media, they raised the country's human rights profile and contributed to significant levels of international attention.

The Government and prominent local NGOs tended to differ in their analysis of a serious and complex human rights situation. In particular, government statistics and evaluations of the human rights situation often contrasted with NGO statistics and analyses. These drastically divergent understandings of the human rights situation deepened already profound mutual suspicions.

Discrepancies between government and NGO statistics partially could be explained by differences in terminology and methodology. For example, the Government defined a massacre as the intentional killing of four or more persons at the same time and place, while NGOs defined a massacre as the deaths of three or more persons. CINEP strictly followed legal conventions that define "human rights violations" as crimes that only can be committed by the State or state-sponsored actors, which led it to attribute, directly or indirectly, all "human rights violations" to the Government. The Government, on the other hand, defined human rights violations to encompass crimes by all illegal armed groups, whether paramilitaries or guerrillas, as well as the State. The Government based its data on information reported to government authorities, supplemented by press reports and confirmable NGO statistics. NGOs, on the other hand, relied primarily on citizen complaints and press reports, which in some cases were difficult to substantiate. The differing reporting techniques resulted in a government tendency to underreport violations and an NGO tendency to overreport violations.

Although the Government generally did not interfere with the work of domestic human rights NGOs, some NGOs claimed criticisms made by the President put them at risk for retaliation by paramilitaries. Many domestic NGOs also contended that the Government arrested human rights activists arbitrarily, particularly in highly conflictive areas (*see* Section 1.d.).

The Government asserted that many self-declared human rights activists actually were engaged in criminal activities that supported terrorism. For example, on February 18, authorities arrested Luz Perly Cordoba, the secretary general of the agricultural workers union FENSUAGRO and human rights director of the Arauca Peasants Association (ACA), for rebellion and criminal conspiracy. She was carrying

a false identity document with a substituted photograph at the time of her arrest (*see* Section 6).

The Government, through the Ministry of Interior and Justice and the DAS, allocated approximately $570,000 (1.25 billion pesos) to its program for the protection of human rights activists and many other vulnerable populations. The Government provided protection to over 29 human rights activists during the year and bulletproofed 9 additional offices and residences.

According to the CCJ, 13 human rights activists were killed and 2 forcibly disappeared during the year; most of these killings were attributed to paramilitaries. On August 3, for example, suspected paramilitaries killed Fredy Arias, spokesman and human rights coordinator for the Kankuamo indigenous tribe, in Valledupar, Cesar Department (*see* Sections 1.a. and 5). Arias had spoken frequently about the human rights crisis affecting his indigenous community. On October 6, suspected paramilitaries killed Ana Teresa Yance, a community leader in Medellin's working class Comuna 13 neighborhood, a former FARC militia stronghold.

On May 4, four armed, masked men forcibly entered the offices of the Permanent Assembly of Civil Society for Peace, an umbrella organization of domestic NGOs, inventoried the office, and stole a cell phone and petty cash. Similar forced entries also occurred on October 18 and November 10, when armed intruders attempted to take information stored on the Assembly's computer system. There were no suspects in any of the incidents at year's end.

There were no new developments and none were expected in the Prosecutor General's investigation of the 2002 killing of Jose Rusbell, a member of the Joel Sierra Human Rights Committee in Arauca department.

The Government generally did not interfere with the work of international human rights and humanitarian NGOs. Representatives of international human rights groups visited the country and held meetings with local human rights groups and individuals in various regions of the country without government interference. These international delegations sometimes received active government protection. The larger international NGOs, such as AI, Human Rights Watch, and the Washington Office on Latin America (WOLA), devoted equal attention to government forces, guerrillas, and paramilitaries. International NGOs criticized the Government not only for some direct violations of human rights, but also for high levels of impunity and its failure to sever effectively links between the military and paramilitaries.

On May 27, in a speech in the city of Apartado, Antioquia Department, President Uribe implicitly criticized both Peace Brigades International and the Fellowship of Reconciliation for allegedly "obstructing justice." On June 16, during remarks to an audience of national police, Uribe explicitly criticized AI for failing to denounce immediately the FARC's massacre of 34 peasants the previous day. AI later denounced the atrocity and explained that it had waited to "verify the facts." Uribe and other government officials subsequently held a variety of meetings with international and local NGOs to reinitiate dialogue and increase trust; however, with limited success.

On October 17, the Danish NGO Association Rebellion allegedly donated $8,500 (18 million pesos) to the FARC. The Government complained to Danish authorities and asked for the extradition of the organization's members. The Government of Denmark reportedly was conducting an investigation at year's end.

The Government cooperated with international governmental organizations. The UNHCR, the International Organization for Migration (IOM), the International Labor Organization (ILO), the United Nations High Commissioner for Human Rights (UNHCHR), ICRC had an active presence in the country and were allowed to carry out their work without government interference.

In March, UNHCHR opened its third regional office in Bucaramanga, Santander Department. The UNHCHR monitored and analyzed the national human rights situation and provided advice and assistance on human rights protection. The UNHCHR's mandate in the country runs through the end of President Uribe's term in 2006.

In its human rights report for 2003, published in March, the UNHCHR once again issued 27 recommendations for improving the human rights situation in the country. Twenty-four of the recommendations were directed at the Government and the independent Prosecutor General's Office (*see* Section 1.e.). The UNHCHR and local NGOs reported that the Government had not fully complied with most of the recommendations by the end of the year. Throughout the year, the Government met with UNHCHR and local NGOs to discuss additional measures to comply with the recommendations. UNHCHR acknowledged progress on several of the recommendations, including establishing offices of the Inspector General and Human Rights Ombudsman throughout the country and improving the Early Warning System.

The National Human Rights Ombudsman, who reports to the Inspector General (*see* Section 1.e.), is elected by the House of Representatives from a list of three candidates submitted by the President to serve a 4-year term overlapping those of two presidents. The Office has the constitutional duty to ensure the promotion and exercise of human rights. In addition to providing public defenders for the indigent (*see* Section 1.e.), the Ombudsman's 34 regional offices served as a channel for complaints of human rights violations. The Ombudsman's Bogota Office was the headquarters of a national Early Warning System (SAT) designed to alert public security forces of impending human rights violations, particularly large-scale massacres.

Volmar Antonio Perez served as Ombudsman by appointment of the President until August, when the House of Representatives elected him to a full term as Ombudsman. The office, with international assistance, continued to provide training to regional ombudsmen and conducted public education on human rights. Despite the Ombudsman's successes, resource constraints meant the office generally was underfunded and understaffed, limiting its ability to effectively monitor human rights violations or prevent their occurrence.

In their role as human rights defenders, regional ombudsmen were under constant threat from illegal armed groups. For example, on April 2, the military uncovered a FARC threat against Rafael Caro, the human rights ombudsman for La Guajira Department.

The Government's Presidential Program for Human Rights and International Humanitarian Law, which operated under the authority of the Vice President, coordinates national human rights policy and actions taken by government entities to promote or protect human rights. It is the Government's primary interlocutor with domestic and international NGOs and with foreign governments on human rights issues. The Program publishes a regular Human Rights Observer magazine that provides analyses of major human rights issues and the human rights situation in disparate regions of the country.

Both the Senate and House of Representatives have legally mandated human rights committees. The committees serve as fora for discussion of human rights issues but have no authority to draft legislation. They therefore lack prestige and have added little of substance to the national human rights debate.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution specifically prohibits discrimination based on race, sex, religion, disability, language, or social status; however, in practice, many of these provisions were not enforced

Women.—The law prohibits domestic violence, including spousal abuse; however, it remained a serious problem. The Institute for Legal Medicine and Forensic Science reported 22,271 cases of domestic violence against women in 2003, but noted that only a small percentage of these cases were brought to its attention. The law provides legal recourse for victims of domestic violence. Judicial authorities may remove an abuser from the household and require therapy or reeducation. According to the Ministry of Justice and Interior, 1,290 persons were charged criminally for domestic violence during the year; 256 were convicted. The law stipulates that the Government must provide victims of domestic violence with immediate protection from physical or psychological abuse. Through its "Make Peace" program, the Colombian Family Welfare Institute (ICBF) provided safe houses and counseling for victims; however, its services were dwarfed by the magnitude of the problem. In addition to fulfilling traditional family counseling functions, the ICBF's 531 family ombudsmen were assigned a total of 18,686 domestic violence cases in 2003. The Human Rights Ombudsman's Office conducted regional training workshops to promote the application of domestic violence statutes.

The law prohibits rape and other forms of sexual violence, including by a spouse; however, it remained a serious problem. In 2003, the Institute for Legal Medicine and Forensic Science reported 8,666 cases of suspected sex crimes, including rape, but noted that, like cases of domestic violence, only a small percentage of such crimes were reported. Paramilitaries and guerrillas raped, sexually abused, and, in some cases, sexually mutilated women and children for allegedly fraternizing with the enemy, working as prostitutes, having sexual relations outside of marriage, or violating imposed codes of conduct or restrictions on dress. The Penal Code provides for sentences of between 4 and 40 years for crimes against sexual freedom and human dignity, including rape, sex with a minor, sexual abuse, induction into prostitution, and child pornography. The maximum sentence for violent sexual assault is 15 years; the minimum sentence is 8. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years and denies probation or bail to offenders who disobey restraining orders. The ICBF provided support to victims of sexual violence.

In October, AI reported that women and girls in the country were subjected to a continuum of violence ranging from domestic violence to violence related to the internal armed conflict. AI accused all parties to the conflict of abusing women, but especially paramilitaries and guerrillas.

Prostitution, which is legal in designated "tolerance zones," was widespread and remained a serious problem exacerbated by a poor economy and internal displacement. Sex tourism existed to a limited extent, especially in coastal cities such as Cartagena and Barranquilla, where marriage and dating services were often fronts for sexual tourism.

Trafficking in women for sexual exploitation continued to be a problem (*see* Section 5, Trafficking).

There were no laws prohibiting sexual harassment, and it remained a pervasive problem.

The Constitution prohibits discrimination against women and specifically requires authorities to ensure adequate and effective participation by women at decision-making levels of public administration. However, discrimination against women persisted. Women faced hiring discrimination, were disproportionately affected by unemployment, and had salaries that were generally incompatible with their education and experience. Government unemployment statistics indicated that the unemployment rate for women was 16.5 percent, compared with 5 percent for men. Female workers in rural areas were most affected by wage discrimination and unemployment.

Despite an explicit constitutional provision promising additional resources for single mothers and government efforts to train them in parenting skills, women's groups reported that single mothers continued to face serious economic and social problems. According to a 1997 Constitutional Court ruling, a woman's decision to bear a child cannot be considered just cause for firing her if she is pregnant or the mother of a child under 3 months of age. There were no published reports of such firings during the year.

NGOs, such as the Popular Women's Organization in Barrancabermeja, Santander Department, and the Women's Path to Peace, in Medellin, Antioquia Department, worked on women's issues, particularly peace initiatives.

Children.—The Constitution imposes an obligation on the family, society, and the State to protect children, foster their development, and ensure their ability to exercise fully their rights; however, these obligations were not fulfilled completely. The Children's Code describes these rights and establishes the services and programs designed to enforce the protection of minors. The ICBF oversees all government child protection and welfare programs and also funds nongovernmental programs that benefit children.

The Constitution stipulates that the State must provide a free public education for children between the ages of 6 and 15; however, the National Department of Statistics (DANE) estimated that 75 percent of children between ages 6 and 15 attended school. By law, a primary education is universal, compulsory, and free. The Government covered the basic costs of primary education, although many families faced additional expenses such as matriculation fees, books, school supplies, and transportation costs that often were prohibitive, especially for the rural poor.

The law requires the Government to provide medical care to children, and boys and girls had equal access to such care. However, medical facilities were not universally available, especially in rural areas.

Child abuse was a serious problem. The National Institute for Legal Medicine and Forensic Sciences reported 7,844 cases of child abuse in 2003. According to the Association Against Child Abuse, less than 5 percent of child abuse cases were reported to government authorities. Although final statistics were unavailable for the year, the National Institute for Legal Medicine and Forensic Sciences estimated that of the 8,666 cases of suspected sex crimes reported to it in 2003, 70 percent involved the sexual abuse of children, the vast majority under them under 14. The ICBF estimated that 25,000 children were victims of sexual exploitation, and it provided assistance, both directly and through other specialized agencies, to more than 14,400 of them during the year.

According to UNICEF, an estimated 35,000 adolescents worked as prostitutes, in spite of legislation prohibiting sex with minors and the employment of minors for prostitution. Children also were trafficked for sexual exploitation (*see* Section 5, Trafficking).

Persons under 18 are prohibited from serving in the public security forces; however, both paramilitaries and guerrillas used child soldiers. In October, the IOM estimated that between 6,000 and 11,000 children in the country were members of illegal armed groups; UNICEF reported that the number was as high as 14,000. The

Ministry of Defense estimated that 40 percent of FARC members were minors and that most guerrilla fighters had joined the FARC ranks as children. Both paramilitaries and guerrillas forcibly recruited minors as combatants.

Although many minors were recruited forcibly, a 2002 study by UNICEF found that 83 percent of child soldiers volunteered. Limited educational and economic opportunities and a desire for acceptance and camaraderie increased the appeal of service in armed groups. Nevertheless, many children found membership in guerrilla and paramilitary organizations difficult, and the Ministry of Defense reported an increase in the number of minors deserting illegal armed groups. At least 529 children surrendered to state security forces during the year. Illegal armed groups frequently threatened children to thwart them from leaving terrorist ranks. For example, in October, three former child soldiers described how the AUC forced them to march several days to an isolated training camp, where they were told they would be tortured and their families killed if they tried to escape. FARC child deserters also reported that local guerrilla commanders threatened to kill their families should they desert or attempt to do so. A reinsertion program for former child soldiers administered by the ICBF provided assistance to 505 children during the year. The remaining 24 children received assistance from their indigenous communities.

Paramilitary groups released some child soldiers as a prelude to demobilizations negotiated with the Government (*see* Section 1.g.).

Child labor was a problem (*see* Section 6.d.).

According to UNHCR, 74 percent of all IDPs were women and children (*see* Section 2.d.). The Human Rights Ombudsman's Office estimated that 15 percent of displaced children attended school. Displaced children especially were vulnerable to physical abuse, sexual exploitation, and recruitment by criminals.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, or within the country.

The Criminal Code provides for prison sentences of between 10 and 15 years and fines of up to 1,000 times the monthly minimum wage. These penalties, which are even more severe than those for rape, can be increased by up to one-third if there are aggravating circumstances, such as trafficking of children under the age of 14. Additional charges of illegal detention, violation of the right to work in dignified conditions, and violation of personal freedom also may be brought against traffickers. Police actively investigated trafficking offenses and some traffickers were prosecuted, although limited resources hindered prosecutions. Between 2000 and July, the Prosecutor General's Office opened 280 investigations into trafficking cases, of which 41 cases resulted in arrests and 25 went to trial.

A government advisory committee composed of representatives of the Presidency, the Ministry of Foreign Affairs, the Ministry of Interior and Justice, the DAS, the Office of the Inspector General, the Office of the Prosecutor General, the Office of the Human Rights Ombudsman, the National Registrar's Office, the National Police, the ICBF, the Presidential Program for Human Rights, and Interpol met every 2 months to discuss trafficking in persons. The committee prepared information campaigns, promoted information exchange between government entities, and encouraged closer cooperation between the Government and Interpol.

The Government cooperated with foreign counterparts on investigations and successfully freed victims in solo and joint operations. During the year, the DAS worked with its counterparts to capture a Spanish trafficker in the coffee region who subsequently was extradited to Spain and sentenced to 18 years in prison. To protect citizens trafficked to other countries, government foreign missions provided legal aid and social welfare assistance. The Ministry of Foreign Affairs and Missions abroad worked closely with the IOM to repatriate victims. In addition, IOM provided antitrafficking training to consular officers. During the year, IOM received information regarding 141 cases of trafficking in persons. Information concerning 9 of these cases came from diplomatic missions overseas.

The country was a source for trafficking in persons, primarily for sexual purposes, and principally to Europe and Asia. Destination countries with large numbers of victims included Spain, Japan, and Hong Kong. Victims also were trafficked to the United States and other Latin American countries. According to the DAS, an estimated 45,000 to 50,000 women worked overseas as prostitutes. Many of them were trafficking victims. The vast majority of trafficking victims were young women, although children and young men were also at risk. Female trafficking victims were at a high risk for sexually transmitted diseases, unwanted pregnancies, and forced abortions.

Many traffickers disclosed the sexual nature of the work they offered but concealed information about working conditions, clientele, and compensation. Others

disguised their intent by portraying themselves as modeling agents, offering marriage brokerage services, or operating lottery or bingo scams with free trips as prizes. Recruiters reportedly loitered outside high schools, shopping malls, and parks to lure adolescents into accepting nonexistent jobs abroad. Most traffickers were well-organized and linked to narcotics or other criminal organizations. Internal trafficking—largely a result of the armed conflict—also was a problem.

The IOM strengthened government institutions involved in antitrafficking efforts and assisted trafficking victims. Specifically, the IOM trained 2,982 officials in 38 regional training sessions on trafficking issues and provided victims with job training and employment opportunities through 13 regional projects that directly benefited 936 persons. The IOM also helped victims obtain necessary medical and psychological care. The Hope Foundation, an antitrafficking NGO, provided educational information, social support, and counseling to trafficking victims. In February, with the support of the IOM, the Foundation launched an information campaign to assist travelers in Bogota's international airport. The Rebirth Foundation also provided assistance to trafficking victims, particularly children.

The IOM continued its major antitrafficking public relations campaign that included placing large posters in airports, foreign consulates, and travel agencies, and running professionally produced public service announcements on television.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. There is no law mandating access to public buildings for persons with disabilities. The law provides persons with physical disabilities access to voting stations. The social security fund for public employees cannot refuse to provide services for children with disabilities, regardless of the costs involved.

National/Racial/Ethnic Minorities.—Approximately 22 percent of the population was of African origin. Afro-Colombians are entitled to all constitutional rights and protections; however, they faced significant economic and social discrimination. Seventy-four percent of Afro-Colombians earned less than minimum wage. Choco, the department with the highest percentage of Afro-Colombian residents, had the lowest per capita level of social investment and ranked last in terms of education, health, and infrastructure. It also continued to experience some of the country's worst political violence, as paramilitaries and guerrillas struggled for control of the department's key drug and weapons smuggling corridors.

The Government had yet to implement the provisions of the 1993 law designed to benefit Afro-Colombians by expanding public services and private investments and providing for collective titles to some Pacific coastal lands.

Indigenous People.—The Constitution gives special recognition to the fundamental rights of indigenous people, who comprise approximately 2 percent of the population.

By law, indigenous groups have perpetual rights to their ancestral lands. Traditional Indian authority boards operated approximately 545 reservations as municipal entities, with officials selected according to indigenous traditions. However, approximately 200 indigenous communities had no legal title to lands they claimed, and illegal armed groups often violently contested indigenous land ownership. The National Agrarian Reform Institute (INCORA) administered a program to buy back lands declared to belong to indigenous communities.

The Constitution provides for special criminal and civil jurisdictions within indigenous territories based on traditional community laws (*see* Section 1.e.). However, these jurisdictions were subject to manipulation and often rendered punishments that were much more lenient than those imposed by regular civilian courts. The law permits indigenous communities to educate their children in traditional dialects and in the observance of cultural and religious customs. Indigenous men are not subject to the national military draft.

Indigenous leaders complained about the occasional presence of government security forces on indigenous reservations and asked that the Government consult with indigenous authorities prior to taking military action against paramilitaries and guerrillas in such areas. The Government was respectful of such requests but stated that for security reasons, it could not provide advanced notice of most military operations.

The Ministry of Interior and Justice, through the Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and traditional rights of indigenous people. Ministry representatives resided in all regions of the country and worked with other governmental human rights organizations and NGOs to promote indigenous interests and investigate violations of indigenous rights.

Despite special legal protections and government assistance programs, indigenous people continued to suffer discrimination and often lived on the margins of society.

Members of indigenous communities continued to be victims of all sides in the internal conflict. According to the Presidential Program for Human Rights, 85 indigenous people were killed during the year, at least 15 by paramilitaries, 12 by the FARC, and 2 by the ELN. For example, on February 27, paramilitaries killed three indigenous people in the port city of Buenaventura, Valle del Cauca Department. On March 10, the FARC killed three indigenous members of the Embera Chami tribe in Mistato, Risaralda Department. On August 3, paramilitaries killed indigenous leader and human rights defender Freddy Arias in the city of Valledupar, Cesar Department (*see* Section 4). On December 7, the FARC killed three leaders of the Embera Katio tribe in the city of Apartado, Antioquia Department. On September 8, the FARC released Arquimides Vitonas and Gilberto Munoz, indigenous leaders in the community in Toribio, Cauca Department, who had been kidnapped on August 23 after venturing into a FARC-controlled area (*see* Sections 1.b. and 3). The Ministry of Interior operated a protection program that provided protection to 32 indigenous leaders during the year.

The UNHCHR strongly criticized threats and violence against indigenous communities and characterized government investigations of human rights violations against indigenous groups as inadequate. The National Organization of Indigenous Persons (ONIC) reported many incidents in which illegal armed groups forcibly recruited indigenous people or obligated them to collaborate, restricted indigenous people's freedom of movement, blockaded indigenous communities, or accused indigenous people of sympathizing with their adversaries.

Section 6. Workers Rights

a. The Right of Association.—The Constitution provides for the right to organize unions, except for members of the armed forces, police, and persons performing "essential public services" as defined by law, and the Government respected this right in practice. However, violence against union members and antiunion discrimination remained obstacles to joining unions and engaging in trade union activities, and the number of unions and union members continued to decline. According to the National Labor College (ENS), a Medellin-based NGO that collects, studies, and consolidates information on organized labor, there were 2,357 unions registered in the country at the end of the year, with 856,099 members, or approximately 4 percent of the labor force.

The Labor Code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a registration process; however, this process was slow and sometimes took years. The Government can compel trade unions to provide interested third parties with relevant information on their work, including books, registers, plans, and other documents. The ILO Committee of Experts considered this amendment to be inconsistent with freedom of association, since it believed that only an administrative authority should conduct investigations when there are reasonable grounds to believe that an offense has been committed.

Labor leaders continued to be targets of attacks by illegal armed groups, primarily for political reasons. According to the ENS, as of August 31, 3 union members were kidnapped, 2 disappeared, 276 were threatened with death, 2 survived attempts on their lives, and 47 were killed. By comparison, 62 trade union members were killed during the same period in 2003. Of those killed, all but one were members of unions affiliated with the United Workers Central (CUT), the country's largest and most left-leaning labor federation. The Ministry of Social Protection asserted that 24 of the 47 trade unionists were killed because of trade union activity, while the others were targeted for political activities or died in personal disputes. The ENS, on the other hand, noted a stronger correlation between trade unionists' deaths and their labor activism, noting that 16 of those killed were board members or union or federation directors who were involved in labor disputes at the time they were killed.

While noting that killings of trade union leaders had declined, the ILO Committee of Experts nonetheless noted what it called a "persistent climate of violence" in the country. Violence against trade unionists was limited generally to regions contested by multiple illegal armed groups. According to the ENS, 66 percent of trade unionist killings occurred in 5 of the country's most conflictive departments: Arauca, Atlantico, Antioquia, Magdalena, and Valle del Cauca. Illegal armed groups disproportionately targeted educators, who represented approximately one-third of the organized work force. According to the ENS, 20 teachers were killed and 254 received death threats during the first 8 months of the year (*see* Section 2.a.).

In 70 percent of incidents of violence against trade union members, the ENS was unable to determine which illegal armed group was responsible. Based on available information, the ENS attributed 37 percent of these crimes to paramilitaries. The CUT claimed that paramilitaries were responsible for 97 percent of the violence against its members through April. On April 15, alleged paramilitaries killed Carlos

Alberto Chicaiza, a leader of SINTRAEMSIRVA, a local government workers union affiliated with the CUT, while he was traveling from Cali to Palmira, Valle del Cauca Department. On July 15, two unidentified gunmen killed Carmen Elisa Nova, a leader of the CUT-affiliated SINTRAHOSPICLINICAS, a medical workers union, in Bucaramanga, Santander Department. On September 7, the Office of the Prosecutor General arrested Lieutenant Juan Pablo Ordonez and soldiers Oscar Saul Cuta and Jhon Alejandro Hernandez of the Army's 18th Brigade for the August 5 killing of labor leaders Jorge Prieto, Leonel Goyeneche, and Hector Alirio Martinez. The Office of the Prosecutor General previously had issued warrants for the arrest of all three labor leaders on suspicion of membership in the ELN. The soldiers alleged the three trade union members had been shot in a skirmish; however, a forensic examination conducted by the Office of the Prosecutor General concluded they likely were executed.

Guerrilla groups killed, kidnapped, and threatened trade union members for political and financial reasons. For example, on June 23, the FARC's 34th Front released Luis Carlos Herrera, vice president of a government workers union in Antioquia, after the departmental government agreed to launch a development project in a FARC-controlled area.

Some labor leaders alleged the Government attempted to marginalize trade unions by arbitrarily arresting trade union members on suspicion of engaging in terrorist activity. According to the ENS, as of August 31, security forces had arbitrarily detained 51 trade unionists, including Luz Perly Cordoba, Secretary General of FENSUAGRO, an agricultural workers union in Arauca department. Authorities arrested Cordoba on February 18 and charged her with rebellion and subversion for alleged ties to the FARC's Northeast Bloc. On August 6, the Office of the Inspector General ruled there was sufficient evidence to proceed to trial against Cordoba. On March 29, a judge dismissed charges against Hernando Hernandez, former president of the National Oil Workers Union (USO), stating there was insufficient evidence to proceed to trial. Hernandez had been charged with rebellion and subversion for alleged ties to the ELN.

Union leaders contended that perpetrators of violence against workers operated with virtual impunity. There were few successful prosecutions of crimes against trade union members. A major obstacle to bringing cases to trial was witnesses' reluctance, for personal security reasons, to testify or come forward with information. Prosecutors and judicial investigators frequently were subject to threats, intimidation, or coercion by illegal armed groups. According to the Ministry of Social Protection, approximately 70 percent of cases involving the killings of trade unionists since 1994 remained in the preliminary investigative stage despite a regulation requiring cases to be brought to trial or closed within 2 years. Action on 18 percent of cases was suspended due to lack of evidence. Approximately 4 percent of cases had been brought to trial. In January, however, authorities arrested Adolfo Hickly for his suspected involvement in the 2002 killing of Adolfo Munera, a leader of SINALTRAINAL, a food and beverage workers union, in Barranquilla, Atlantico Department. Several labor organizations continued to pursue civil suits against alleged authors of paramilitary antilabor violence. For example, SINTRAMINERGETICA's 2003 civil suit in a foreign court against the Drummond Company, which operated a large coalmine in Cesar Department, alleged that the company ordered or acquiesced in local paramilitaries' killings of three union activists.

During the year, the Government and the country's three principal labor federations finalized development of a work plan for the Inter-Institutional Commission for the Promotion and Protection of Worker's Human Rights. The Commission is charged with preventing human rights violations against union members and promoting and protecting freedom of association, collective bargaining, and the right to strike.

To improve the security of particularly vulnerable union leaders, the Government increased resources devoted to the Ministry of Interior and Justice's protection program for trade union leaders. During the year, the program secured 19 union headquarters and residences, and, since 1999, has provided protection to 5,681 union members and activists. Although trade union leaders acknowledged the benefits of the program, they still complained that its resources were insufficient to protect the large number of threatened trade unionists adequately. The Executive Council of the CUT also complained that labor unions were not given an adequate voice in the administration of the program. The Presidential Program for Human Rights established a program to relocate at-risk teachers (*see* Section 2.a.).

The Constitution prohibits antiunion discrimination. However, a number of longstanding ILO criticisms of the Labor Code challenged the scope and effectiveness of this provision. Specifically, the ILO criticized: The requirement that government officials be present at assemblies convened to vote on a strike call; the legality of

firing union organizers from jobs in their trade once 6 months have passed following a strike or dispute; the requirement that candidates for trade union offices belong to the occupation that their unions represent; the prohibition of strikes in a wide range of public services that are not necessarily essential; the Government's power to intervene in disputes through compulsory arbitration when a strike is declared illegal; and the power to dismiss trade union officers involved in an unlawful strike.

b. The Right to Organize and Bargain Collectively.—The Constitution provides for workers' right to organize and bargain collectively, and the Government respected this right in the private sector; however, collective bargaining had not been implemented fully in the public sector. High unemployment, a large informal economic sector, traditional antiunion attitudes, and violence against trade union leaders made organizing unions difficult. Weak union organization and a requirement that trade unions represent a majority of a company's workers to negotiate on their behalf limited workers' bargaining power in all sectors. There are no special laws or exemptions from regular labor laws in export processing zones. Labor law applies in the country's 15 free trade zones, and its standards were enforced.

Collective pacts between individual workers and their employers were not subject to collective bargaining and were used by employers to complicate and discourage labor organization.

The growing prevalence of workers' cooperatives further diminished collective bargaining. Workers' cooperatives are required to register with the Superintendent of Economic Cooperatives, which places the number of such cooperatives at 1,500 and the number of associated workers at 150,000. Workers' cooperatives are obligated to provide compensation at least equivalent to the minimum wage and the same health and retirement benefits as other workers receive. Government investigations revealed irregularities or abuses in 75 percent of workers' cooperatives. Investigators discovered that most cooperatives engaged in subcontracting and, in some cases, that private sector employers had forced workers to form cooperatives and were themselves managing the cooperatives' day-to-day operations. The Government has the authority to fine violators but has no recourse to shut down repeat offenders. In practice, nominal fines assessed by the Government did little to dissuade violators. In September, the Government rescinded specific tax breaks enjoyed by workers' cooperatives.

The Constitution provides for the right to strike, and workers exercised this right in practice; however, members of the armed forces, police, and persons executing "essential public services" as defined by law were not permitted to strike.

Before staging a legal strike, public sector unions must negotiate directly with management and accept mediation if they cannot reach an agreement. The law prohibits the use of strikebreakers. Legislation that prohibits public employees from striking is still in effect, although it often was overlooked. By law, public employees must accept binding arbitration if mediation fails.

Various high profile strikes occurred during the year. On April 22, the USO declared a "political strike" to protest government plans to restructure Ecopetrol, the country's state-owned oil company. The strike, which lasted 35 days, was declared illegal by the Government on the basis of a 1995 Constitutional Court decision ruling that all hydrocarbon sector employees perform "essential public services." Approximately 250 USO workers were dismissed for participating in the strike. As part of the settlement, a voluntary arbitration tribunal was established to determine on a case-by-case basis whether dismissed workers should be reinstated.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits slavery and any form of forced or compulsory labor, including by children, and there were no reports that such practices occurred in the formal sector.

Paramilitaries and guerrillas practiced forced conscription (*see* Section 5). There were some reports that guerrillas and paramilitaries used forced labor, including child labor, in areas outside full government control (*see* Section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Constitution prohibits the employment of children under 14 in most occupations, and the Labor Code prohibits the granting of work permits to children under 18; however, child labor remained a significant problem, particularly in the informal sector. According to the DANE, nearly 15 percent of children were employed. In October 2003, a National Committee for the Eradication of Child Labor, which included officials from the Ministries of Social Protection, Education, and Communications, as well as representatives of unions, employer associations, and NGOs, implemented the Government's 2003–06 Third National Plan to Eradicate Child Labor. The Action Plan includes specific goals and strategies to protect children by updating information on child labor, strengthening the education system, actively searching for child

workers and removing them from the workplace, and improving cooperation and coordination at the departmental and municipal levels.

The Government has ratified ILO Convention 182 but has not deposited the instrument of ratification with the ILO, pending review of an ILO-prepared legal opinion on whether the Government can be held responsible for forced conscription of child soldiers by illegal armed groups (*see* Section 5).

The 1989 decree that established the Minors Code categorically prohibits the employment of children under 12 and strictly limits work by children ages 12 and 13. It also requires exceptional conditions and the express authorization of the Ministry of Labor to employ children between 12 and 17. Children under 14 are prohibited from working, with the exception that those ages 12 and 13 may perform light work with the permission of their parents and appropriate labor authorities. Children ages 12 and 13 may work a maximum of 4 hours a day, children ages 14 and 15 a maximum of 6 hours a day, and children ages 16 and 17 a maximum of 8 hours a day. All child workers are prohibited from working at night or performing work where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. Children are prohibited from working in a number of specific occupations, including mining and construction; however, these requirements largely were ignored in practice, and 5 percent of working children possessed the required work permits.

According to a recent report released by parastatal company Mineros de Colombia, between 200,000 and 400,000 children worked in illegal gold, clay, coal, emerald, limestone, and other mining operations. Children also worked extensively in agriculture, primarily on subsistence family farms. According to DANE, approximately 200,000 children worked as coca pickers or in other aspects of the illegal drug trade. The legal minimum age for work was inconsistent with completing a basic education, and only 38 percent of working children attended school.

Although there were no reports of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (*see* Sections 1.f. and 5), prostitutes (*see* Section 5), or coca pickers. The Minors Code provides for fines ranging from 1 to 40 minimum monthly salaries for violations of child labor laws. If a violation is deemed to have endangered a child's life or threatened his or her moral values, sanctions also can include the temporary or permanent closure of the guilty establishment. In the formal sector, the Ministry of Social Protection enforced child labor laws through periodic inspections.

The Ministry had inspectors in each of the country's 32 departments and the national capital, responsible for certifying and conducting repeat inspections of workplaces that employed children; however, the system lacked resources and covered 20 percent of the child labor force employed in the formal sector of the economy.

The National Committee for the Eradication of Child Labor conducted training on legislation and enforcement for approximately 600 public officials in 7 departments and created an information system on child labor to better measure and understand the problem. The Government, the major labor federations, and media representatives published articles, broadcast documentaries, and launched other outreach programs to delegitimize child labor. UNICEF continued a program to encourage children to leave the workforce and return to school.

e. Acceptable Conditions of Work.—The Government sets a uniform minimum wage every January that serves as a benchmark for wage bargaining. The monthly minimum wage, set by tripartite negotiations among representatives of business, organized labor, and the Government, was approximately $140 (358,000 pesos). Because the minimum wage is based on the Government's target inflation rate, the minimum wage has not kept up with real inflation. The national minimum wage did not provide a decent standard of living for a worker and family. An estimated 47 percent of workers earned wages that were insufficient to cover the costs of the Government's estimated low-income family shopping basket.

The Labor Code provides for a regular workday of 8 hours and a regular workweek of 48 hours. The Code stipulates that workers are entitled to receive premium compensation for additional hours worked and for work performed on Sundays. The law requires employers to provide premium pay for work performed between the hours of 10 p.m. and 6 a.m.

Legislation provides comprehensive protection for workers' occupational safety and health, which the Ministry of Social Protection enforced through periodic inspections. However, a lack of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions. The Social Security Institute reported 148,835 work-related accidents through the first 8 months of the year, resulting in 363 deaths. Workers in the informal sector sometimes suffered physical or sexual abuse.

The Labor Code provides workers with the right to remove themselves from a hazardous work situation without jeopardizing continued employment. However, unorganized workers, particularly those in the agricultural sector, often continued working in hazardous conditions because they feared losing their jobs if they criticized abuses.

COSTA RICA

Costa Rica is a constitutional democracy governed by a president and unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. The presidential term of Abel Pacheco de la Espriella, of the Social Christian Unity Party (PUSC), began in May 2002, after he won 58 percent of the vote in a fair and free election. The judiciary is independent.

The 1949 Constitution abolished the military forces. The Ministry of Public Security—which includes specialized units such as the anti-narcotics police—is responsible for law enforcement and shares national security responsibility with the Ministry of the Presidency. The judicial investigative police, part of the judicial branch of government, conduct most criminal investigations. Civilian authorities maintained effective control of the security forces. Some members of the security forces committed isolated human rights abuses.

The market economy was based primarily on light industry, tourism, and agriculture; the country's population was approximately 4 million. Real gross domestic product growth was 3.9 percent, compared with 5.6 percent in 2003. Wage growth for public and private sector employees, estimated at 8.5 percent and 11 percent respectively, did not keep pace with the 13.13 percent rate of inflation.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. There were some instances of physical abuse by police and prison guards, and penitentiary overcrowding remained a problem. The judicial system processed some criminal cases very slowly, resulting in lengthy pretrial detention for some persons charged with crimes. Press freedom was a problem, with some journalists practicing self-censorship to avoid accusations of libel, defamation, and the associated criminal penalties involved if convicted of such crimes. Domestic violence was a serious problem, and traditional patterns of unequal opportunity for women remained. Abuse of children also remained a problem, and child prostitution was a serious problem. Trafficking in persons was a problem. Child labor persisted, in spite of government efforts to eradicate it.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, in June, security forces shot and killed a man fleeing from the scene of a domestic disturbance. The police officers reported that they were unaware they had injured the man, whose body was discovered a day later in the field into which he had fled. At year's end, the investigation of the shooting continued, and the police officer involved was fired for an unrelated matter.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices and holds invalid any statement obtained through violence; however, members of the security forces were responsible for some physical abuse. The Ombudsman's office was effective in lodging and recording complaints of police misconduct (*see* Section 4).

As of August, the Ombudsman's office had received 39 reports of police abuse of authority or misconduct. Of these, 20 reports still were being investigated, 8 were determined to be legitimate, and 11 were determined to be without merit.

Prison conditions generally met international standards; however, overcrowding, poor sanitation, lack of health services, and violence among prisoners were common. As of August, the Ombudsman's office received 14 complaints of physical abuse of prisoners by guards, of which 11 were still being investigated, and 3 were determined to be without merit. The office also received 163 other complaints from prisoners alleging inadequate medical care, arbitrary administrative procedures, violation of due process of disciplinary procedures, unfair denial of prison transfer requests, and poor living conditions. Of these 163 complaints, 89 were still being investigated, 15 were determined to be legitimate, and 59 were determined to be with-

out merit. The Ombudsman's office investigated all complaints and referred serious cases of abuse to the public prosecutor. Illegal narcotics were readily available in the prisons, and drug abuse was common. On July 20, a prison guard was arrested for smuggling narcotics into a San Jose prison. The Social Adaptation Division of the Ministry of Justice reported that seven Ministry employees were imprisoned, and another five employees were awaiting trial for smuggling narcotics into prisons.

Penitentiary overcrowding remained a problem. As of October, the Social Adaptation Division of the Ministry of Justice reported a total of 13,692 persons under its supervision, including 7,611 jailed prisoners, 936 persons required to spend nights and weekends in jail, 4,545 persons in supervised work programs requiring no jail time, and 600 juveniles. The overall prison overpopulation rate was 10 percent; however, crowding was more severe in several small jails. Problems at La Reforma prison complex, the country's largest, and San Sebastian prison drew attention to conditions in those institutions. Conditions at the young adult prison in the La Reforma complex were so poor that the Public Defender presented a case before the Supreme Court calling for the construction of a new facility to house young adults convicted of crimes while minors. Despite a judicial order that required the Ministry of Justice to develop a solution, at year's end, the prison continued to hold young adult prisoners. The Ombudsman attributed the problems at La Reforma to overcrowding, deteriorating infrastructure, lack of adequately trained prison personnel, lack of prisoner employment programs, and insufficient medical care. Local judicial officials also cited the practice of grouping hardened criminals together with first-time offenders because of a shortage of maximum-security units and a poorly functioning drug-rehabilitation program.

Prisoners usually were separated by sex and by level of security (minimum, medium, and maximum); however, overcrowding sometimes prevented proper separation. As of October, the Ministry of Justice reported a total of 1,149 women under its supervision, including 527 jailed prisoners, 151 persons required to spend nights and weekends in jail, 447 persons in supervised work programs requiring no jail time, and 24 female juveniles. Female prisoners were held separately in conditions that generally were considered fair, although the women's prison held 8 percent more inmates than its intended capacity.

Juveniles were held in separate detention facilities in campus-like conditions that generally were considered good. The juvenile penal system held 93 youths in detention and another 507 in supervised alternative sanction programs.

Most, but not all, pretrial detainees were held separately from convicted prisoners.

The Government permitted prison visits by independent human rights observers, including representatives from the Ombudsman's office. Human rights observers were allowed to talk to prisoners and to prison employees in confidence and without third parties present.

d. Arbitrary Arrest or Detention.—The Constitution and law prohibit arbitrary arrest and detention, and the Government generally respected these prohibitions.

The "Public Force," a combination of several disbanded police units, including the Border Guard, the Rural Guard, and the Civil Guard, is approximately 10,000 strong, not including municipal police forces, which are supervised and funded by each municipality. The Ministry of Public Security has a Disciplinary Legal Department with an Internal Affairs Unit to investigate charges made against its public force members and members of other Ministry of Public Security units such as the anti-narcotics police. During the year, investigations resulted in over 70 dismissals. A number of the dismissals were the result of background checks that revealed some officers did not meet required educational or other hiring requirements, or had a number of unauthorized absences from duty. As of September, there were also were two dismissals for abuse of authority, nine for drug or alcohol abuse, three for refusal to take a drug test, and four dismissals for acts of corruption. These statistics did not include complaints against the judicial investigative police, transit police, or immigration officers, who were under the authority of other ministries or institutions.

The Pacheco administration continued its effort to depoliticize and professionalize the police force. A 2001 law replaced military ranks with civilian titles and ensured that police officials were not dismissed due to a change in administrations. The law also required that the police academy develop a course in police administration that included material on the fundamental and universal principles of human rights. All new recruits received approximately 1 week of human rights training as part of the 7-month basic training program. Due to resource constraints, only new recruits passed through the basic training program; it was estimated that 3,500 members of the police force had attended the basic training program.

The law requires issuance of judicial warrants before making arrests. The Constitution entitles a detainee to a judicial determination of the legality of the detention during arraignment before a judge within 24 hours of arrest. The law provides for the right to bail, and the authorities observed it in practice. The law also provides detainees prompt access to an attorney, and, in practice, this was often done before the arraignment. Indigents are provided a public attorney at government expense, and, in practice, even those with sufficient personal funds may obtain a public defender. With judicial authorization, the authorities may hold suspects incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days.

On January 30, security forces detained approximately 600 citizens and Nicaraguan immigrants in La Carpio to verify their immigration status and check for outstanding arrest warrants. On March 19, the Supreme Court ruled that the collective detention was unconstitutional since it violated the due process rights of the individuals detained.

A criminal court may hold suspects in pretrial detention for periods of up to 1 year, and the court of appeals may extend this period to 2 years in especially complex cases. The law requires that suspects in pretrial detention have their cases reviewed every 3 months by the court to determine the appropriateness of continued detention. According to the Ministry of Justice, in October, there were 2,078 persons in pretrial detention, representing 39 percent of the prison population.

e. Denial of Fair Public Trial.—The Constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice. The Constitution provides for the right to a fair trial, and an independent judiciary enforced this right; however, the legal system faced many challenges, including significant delays in the adjudication of civil disputes and a growing workload.

The judicial branch of government includes the upper and lower courts, the judicial investigative police, the office of the prosecutor, the office of the public defender, forensic laboratories, and the morgue. The lower courts include the courts of first instance and the circuit courts. The Supreme Court is the highest court, with 22 justices known as magistrates. The Legislative Assembly elects those magistrates for 8-year terms, which are renewed automatically unless two-thirds of the Assembly opposes such renewal. The Supreme Court generally had a reputation for independence and integrity.

All trials, except those that include juvenile defendants, are public. A trial is presided over by a single judge or by a three-judge panel depending on the potential penalties arising from the charges. Trials that involve victims or witnesses who are minors are closed during that portion of the trial where the minor is called to testify. There are no jury trials. Accused persons can select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent. The law provides for detainee and attorney access to government-held evidence, and defendants can question witnesses against them and present witnesses on their behalf. Defendants enjoy a presumption of innocence, and if convicted, have the right of appeal.

On August 4, the Inter-American Court of Human Rights ruled that the Government had violated Article 8 (Denial of Due Process) of the Inter-American Convention on Human Rights by not permitting a correspondent to submit evidence in his defense during a 2001 appeal before the Supreme Court. The correspondent was convicted of defamation in 1999 and appealed the criminal court's ruling in 2001 (*see* Section 2.a.).

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice. The law requires judicial warrants to search private homes. Judges may approve the use of wiretaps in investigations of certain crimes such as: Genocide, homicide, kidnapping, terrorism, narcotics trafficking, production of pornography, trafficking in persons, and the trafficking of persons for their organs. However, legal guidelines on the use of wiretaps are so restrictive that the use of wiretaps was rare.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Irregular enforcement of property rights and duplicate registrations of title harmed the real property interests of many who believed they held legitimate title to land. Landowners throughout the country suffered occasional squatter invasions; sometimes they requested government assistance to evict squatters forcibly from private land. On April 22, 75 squatters were arrested attempting to return to land from which they were removed forcibly in July 2003. A group of more than 100 squatters sought shelter in a San Jose church for

several months until a court ruling assured the families that they could return to their homes, which were located approximately 5 miles from the disputed land.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, journalists and media company owners criticized outdated legislation that imposed criminal penalties, instead of civil fines, for common press infractions and argued that such legislation promoted self-censorship.

On August 4, the Inter-American Court of Human Rights ruled that the Government had violated Article 13 (Freedom of Expression) of the Inter-American Convention on Human Rights when a criminal court convicted a journalist of defamation in 1999. The criminal court had sentenced the correspondent to 120 days in jail and ordered his newspaper to pay approximately $200,000 (88,890,000 colones) in fines. The Inter-American Court of Human Rights ruled that the Government should reform its press laws "within a reasonable amount of time," expunge the correspondent's name from the criminal registry, and pay the correspondent's damages and legal expenses.

In an August 2003 survey by La Nacion newspaper of 184 journalists on their perception of freedom of the press, 41 percent said they left out information in reporting because of legal concerns, 79 percent said they felt pressure not to investigate certain issues, and 22 percent claimed that they had received some type of threat during the previous 12 months relating to the performance of their job. The greatest number of threats came from business and political interests. Of the surveyed journalists, 75 percent indicated that they felt constrained in their practice by existing legislation, and the same proportion were unsatisfied with the slow progress the Legislative Assembly had made in reforming existing laws.

However, in a public opinion poll conducted by Unimer in December, 61 percent of respondents indicated that they believed the press was at liberty to inform the public, compared with 33 percent in 2001. This change in the public's perception was attributed to journalists' investigative reports of high-level corruption scandals throughout the year (*see* Section 3).

A 1996 "right of response" law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Print and electronic media continued to criticize public figures; however, media managers found it difficult to comply with provisions of this law. The Penal Code outlines a series of "insult laws" that establish criminal penalties of up to 3 years in prison for those convicted of "insulting the honor or decorum of a public official." The law also identifies defamation, libel, slander, and calumny as offenses against a person's honor that can carry criminal penalties. In 2003, the Inter-American Press Association and the World Press Freedom Committee asserted that such laws had the effect of restricting reporting by the media, and that they wrongly provided public officials with a shield from public scrutiny by citizens and the press.

During the year, three journalists were convicted in criminal courts for journalism infractions. One journalist was sentenced to 30 days in prison and fined for "tarnishing the image" of a school official, another was sentenced to 10 days in prison and fined for publishing an altered photo of television models, and a third was sentenced to 50 days in prison and fined after publishing a story that accused a public employee of misusing public funds.

In December 2003, journalist Ivannia Mora was killed, and police arrested and charged her former employer and four accomplices for ordering the killing. At year's end, the case was still under investigation, but a business rivalry appeared to be the motive.

During the year, the authorities arrested additional suspects in the 2001 murder of radio host Parmenio Medina. At year's end, police continued to investigate the case. Individuals charged during 2003 remained in detention pending trial.

The Commission on Control and Rating of Public Performances rates films and has the authority to restrict or prohibit their showing if it is determined that the films are strictly pornographic or violent in nature or incite crime or vice. The Commission has similar powers over television programs, radio programs, and stage plays. In addition, the Commission regulates the sale and distribution of written material deemed pornographic, enforcing specific packaging and display regulations. A tribunal reviews appeals of the Commission's actions.

On May 26, a judge ordered a tabloid magazine office closed after the owner failed to pay fines imposed by the Commission. The fines, pending from October 2003, resulted from the owner's refusal to submit the magazine, which reportedly contained semi-nude photographs, for the Commission's review before distributing and selling the magazine. The owner argued that the magazine was not pornographic, and the

Commission's action amounted to censorship. In August, the magazine was allowed to resume publication, but the owner of the magazine requested that the Inter-American Commission on Human Rights review the case.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

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

On May 31, in La Carpio, residents barricaded a street to protest the lack of infrastructure and to demand property titles to land they occupied. Security forces intervened to remove the barricade, and a riot ensued. Police used tear gas and retreated from the scene. Six police officers and two civilians suffered gunshot wounds during the incident. After negotiations, residents agreed to remove the barricade the following morning.

Beginning on August 23, truck drivers blocked highways throughout the country to protest government vehicle inspection requirements. After attempting to negotiate with the truckers' representatives for 2 days, security forces arrested 85 persons who refused to move their vehicles. In some cases, police broke windows and used tear gas in arresting individuals locked inside their vehicles. Within a day, all of those arrested for blocking public roads were released.

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

The Constitution establishes Roman Catholicism as the state religion; however, it also prohibits the State from impeding the free exercise of other religions "that do not impugn universal morality or proper behavior." Members of all faiths freely practiced their religion without government interference. Religious education teachers in public schools must be certified by the Roman Catholic Church Conference of Bishops, which does not certify teachers from other denominations or faiths. Private schools were free to offer any religious instruction. Foreign missionaries and clergy of all faiths worked and proselytized freely.

The Government did not restrict the establishment of churches. New churches, primarily evangelical Protestant churches that are located in residential neighborhoods, occasionally encountered problems with local municipalities due to neighbors' complaints about noise and traffic. Some churches were closed as a result.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. There were no restrictions on travel within the country, emigration, or the right of return.

The law requires that adults carry their national identification cards with them at all times. Persons who fail to produce such documents at security checkpoints may be detained until their identity and immigration status are verified.

The Constitution prohibits forced exile, and it was not used.

The law and a series or executive decrees provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The Refugee Department, in the General Directorate of Migration, is in charge of refugee status determination. The law requires refugee applications to be adjudicated within a month of receipt. Unlike in previous years, the Refugee Department eliminated its backlog, and most refugee cases were processed within a month.

As of December 12, the Government received 1,386 applications for refugee status, of which 1,132 were from Colombians. From January to December 12, the Government recognized 819 persons as refugees, of which 765 were of Colombian origin. These figures included family members. Since July 2001, the Government received 14,559 applications for refugee status, of which 12,676 were from Colombians. The majority entered in legal visitor status and applied for asylum. Those who sought temporary refugee status were expected to return to their country of origin once fighting ended.

In addition, the Government provided refugee status for 20 Cuban migrants in need of protection who had been interdicted by a foreign government. The Constitution specifically prohibits repatriation of anyone subject to potential persecution.

The authorities regularly repatriated undocumented Nicaraguans, most of whom entered the country primarily for economic reasons. According to the General Directorate of Migration, between January and November 14, the Government deported 955 persons, of which 607 were Nicaraguans, and denied entry to 37,648 persons, of which 36,446 were Nicaraguans.

Allegations of abuse by immigration and other border officials periodically arose.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage and by secret ballot every 4 years. The independent Supreme Electoral Tribunal ensured the integrity of elections, and the authorities and citizens respected election results. Presidents may seek reelection after sitting out two 4-year terms. Assembly members may seek reelection after at least one term out of office.

In the February 2002 elections, the failure of any presidential candidate to win 40 percent of the popular vote necessitated a runoff election in April, which was won by Abel Pacheco of the PUSC Party. PUSC candidates won 19 of the Legislative Assembly's 57 seats. The National Liberation Party won 17 seats, and several other parties hold the remaining seats. Although traditionally a two-party system, several small opposition parties wielded significant influence within the Legislative Assembly.

A special legislative committee continued to investigate campaign finance irregularities and undisclosed sources of funding by the presidential candidates during the 2002 election. It aimed to formulate recommendations before the start of the 2006 election process. At year's end, the committee had not yet completed its deliberations. In December, the Chief Prosecutor's office also announced the reopening of the campaign finance investigation surrounding President Pacheco's 2002 election campaign. The investigation continued at year's end.

Public corruption remained an issue in spite of government efforts to combat it. During the year, there were several well-publicized accusations against government officials engaged in corruption or alleged conflict of interest arrangements.

In April, the president of the Costa Rican Social Security Fund (CCSS) was forced to resign following disclosure that he had been renting a house, at discounted rates, owned by the chief financial officer of an important CCSS medical supplier. In June, this investigation widened when investigators found that the CCSS Board of Directors used public funds to pay for an advertising campaign supporting the former CCSS president. Subsequently, members of the Board of Directors were charged with embezzlement.

The CCSS investigation continued throughout the year and eventually implicated former President Rafael Angel Calderon and other prominent individuals. Investigators claimed that Calderon directed a scheme that pushed a bill through the Legislative Assembly to purchase $39.5 million in medical equipment, and in return, the former president and accomplices received approximately $9.2 million in commissions. In October, former President Calderon was placed in pretrial detention, and the investigation into bribery, illicit enrichment, and corruption involving the CCSS case continued at year's end.

In July, following a separate investigation, President Pacheco fired two directors of the Costa Rican Institute of Electricity (ICE) after disclosures that they had used a 2003 business trip for personal ends, which resulted in the award of a $130 million ICE contract to a global telecommunications company. A third ICE manager also was fired for his role in the contract award, and the contract was suspended until a review could be completed. In July, the Constitutional Court accepted an appeal by the two fired directors, but the appeal later was dismissed.

In September, one of the ICE directors fired in July disclosed to investigators the details of another kickback arrangement that implicated former President Miguel Angel Rodriguez. The former ICE director alleged that former President Rodriguez received part of a $2.4 million dollar kickback received from a foreign telecommunications company (a different company than the case for which the director was already under investigation) in exchange for the award of two ICE contracts totaling over $258 million. Upon his return to the country on October 15, Rodriguez was arrested and later placed in pretrial detention. The investigations into the kickback and other cases involving the former president continued at year's end.

In October, a third former President, Jose Maria Figueres Olsen admitted to receiving $900,000 from the same foreign communications company implicated in the kickback scheme involving former President Rodriguez; however, Figueres denied any wrongdoing and stated that the funds received over a 3-year period were for

professional consulting services. Despite requests from the Legislative Assembly for his return, Figueres remained in Switzerland and had not been charged with a crime at year's end.

The Government generally respected citizens' rights to information, and many government institutions published reports that detailed the year's activities. In May, the Ombudsman's office released its annual human rights report, which criticized the Government for its lack of transparency and for denying public access to information. Specifically, the report criticized the lack of transparency regarding the funding of the Foundation for State Cooperation, a private foundation that supported government programs. The report also criticized the Government for failing to provide information on its fiscal reform proposal, on cuts in social spending, and on the negotiations of a free trade agreement. The Ombudsman's office criticized the annual fee of approximately $27 (12,000 colones) required to access the daily government gazette via the Internet, stating that the fee infringed upon the rights of citizens to access government decrees, edicts, resolutions, and legislation.

Women encountered no legal impediments to their participation in politics and increasingly were represented in leadership positions in the Government and political parties. The Supreme Electoral Tribunal required that a minimum of 40 percent of candidates for elective office be female and that women's names be placed accordingly on the ballots by party slate. The First Vice President (who is also the Minister of the Presidency), the Minister of Child and Adolescent Issues, the Minister of Health, the Minister of Justice, and the Minister of Women's Affairs were women. There were 20 women in the 57-seat Legislative Assembly, including 9 legislative committee chairwomen, and women held prominent offices in the 3 largest political parties.

Indigenous people may participate freely in politics and government; however, in practice, they have not played significant roles in these areas except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. They accounted for approximately 1 percent of the population. There were no indigenous members of the Legislative Assembly.

The country's 100,000 Afro-Caribbeans, who mostly resided in Limon Province, enjoyed full rights of citizenship, including the protection of laws against racial discrimination. There were three Afro-Caribbean members in the Assembly.

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

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

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides that all persons are equal before the law, and the Government generally respected this provision.

Women.—The Government continued to identify domestic violence against women and children as a serious societal problem. The law prohibits domestic violence and provides measures for the protection of domestic violence victims. Criminal penalties range from 10 to 100 days in prison for aggravated threats and up to 35 years in prison for aggravated homicide. During the year, the autonomous National Institute for Women (INAMU) provided assistance to 5,866 women, including counseling and lodging for battered women in INAMU shelters. INAMU also maintained a domestic abuse hotline, receiving 6,021 calls in 2003.

The Office of the Special Prosecutor for Domestic Violence and Sexual Crimes for the San Jose area investigated 45 cases of disobeying a court order, 83 cases of assault, 82 cases of armed assault, 124 cases of battery, 3 cases of aggravated battery, 15 cases of abandonment, 80 cases of verbal threats, 5 cases of attempted killing, and 1 killing. In addition, the Office reported that it was investigating 14 cases of parental abuse of custodial rights and 28 cases of parental abduction of children. In 2003, the Office of the Special Prosecutor for Domestic Violence and Sexual Crimes prosecuted 448 cases related to domestic violence. INAMU reported that 20 women and girls were killed in incidents of domestic violence, compared with 29 during 2003.

The Law Against Domestic Violence establishes mechanisms to help victims. The authorities incorporated training on handling domestic violence cases into the basic training course for new police personnel. The law requires public hospitals to report cases of domestic violence against women. It also denies the perpetrator possession of the family home in favor of the victim. The public prosecutor, police, and Ombudsman had offices dedicated to this problem.

The law defines various types of rape and provides sanctions dependent upon a victim's age and other factors such as an assailant's use of violence or position of influence over the victim. The Penal Code provides for sanctions from 10 to 18 years in prison for rape and 2 to 10 years in prison for statutory rape. As of November, authorities reported approximately 5,400 cases of sex crimes, compared to 5,226 cases in 2003. Authorities attributed the increase to a greater public awareness of the need to report these types of crimes. Approximately 17 percent of the prison population was serving sentences as a result of convictions related to sex crimes.

Prostitution is legal for persons over the age of 18. The Penal Code prohibits individuals from promoting or facilitating the prostitution of individuals of either sex, independent of the individual's age, and the penalty is increased if the victim is under the age of 18. There are no specific laws against sex tourism, which is a growing problem; however, law enforcement agencies initiated investigations under existing legislation that prohibits the promotion of prostitution. The Government and several advocacy groups also initiated awareness campaigns publicizing the dangers of sex tourism and its association with child sexual exploitation.

The law prohibits sexual harassment in the workplace and educational institutions and the Ministry of Labor generally enforced this prohibition. The law imposes penalties ranging from a letter of reprimand to dismissal, with more serious incidents subject to criminal prosecution. The Ombudsman's office received 66 complaints of sexual harassment from May 2003 until April.

The Law for the Promotion of the Social Equality of Women prohibits discrimination against women and obligates the Government to promote political, economic, social, and cultural equality. The Government maintained offices for gender issues in almost all ministries and most parastatal organizations, and the Ministry of Labor was responsible for investigating allegations of gender discrimination. INAMU implemented programs that promoted gender equality and publicized the rights of women.

According to a 2003 U.N. Development Program report, women over age 15 represented 36.6 percent of the labor force. Most women (76 percent) worked in the service sector, with the remainder working in industry (17 percent) and agriculture (6 percent). Women occupied 45 percent of professional and technical positions and 30 percent of legislative, senior official, and managerial positions. The Constitution and Labor Code require that women and men receive equal pay for equal work; however, the estimated earned income for women was approximately 78 percent of the earned income for men, despite the fact that 20 percent of women in the workforce had some university instruction, compared with 11 percent of men.

Children.—The Government was committed to children's rights and welfare through well-funded systems of public education and medical care. It also established a legal framework intended to comply with the Convention on the Rights of the Child and other international standards. Primary education is compulsory, free, and universal. The law requires 6 years of primary and 3 years of secondary education for all children, and attendance is required until age 15. School attendance requirements were generally enforced. The Ministry of Education reported that, as of July, the estimated primary school dropout rate was 1.4 percent, and the secondary school dropout rate was 4.4 percent. The law guarantees equal access to education and health care services to all minors, regardless of gender or legal residency status.

In recent years, the autonomous National Institute for Children (PANI) increased public awareness of abuse of children, which remained a problem. During the year, PANI assisted 4,511 children, including 564 cases of substance abuse, 2,435 cases of physical abuse, and 1,425 cases of sexual abuse. Traditional attitudes and the inclination to treat such crimes as misdemeanors sometimes hampered legal proceedings against those who committed crimes against children.

The Government, security officials, and child advocacy organizations acknowledged that the commercial sexual exploitation of children remained a serious problem (*see* Section 5, Trafficking in Persons).

In 2003, the NGO Casa Alianza estimated that of the approximately 1,500 children living on the street, 76 percent were addicted to drugs and 29 percent survived by prostitution.

The Constitution and the Labor Code provide special occupational protection for minors and establish a minimum working age of 15 years. Child labor was a problem mainly in the informal sector of the economy (*see* Section 6.d.).

Trafficking in Persons.—Although the law prohibits the trafficking in women and minors for the purpose of prostitution, comprehensive legislation that addresses all forms of trafficking does not exist. NGO representatives stated that the absence of

such legislation hindered the prosecution of trafficking cases. There were reports that persons were trafficked to, from, and within the country.

The law provides for sentences of 2 to 10 years in prison for anyone who engages in sex with a minor and 4 to 10 years in prison for those who managed or promoted child prostitution. The Government enforced this law and raided brothels and arrested clients.

As of September, authorities had charged one individual with a trafficking-related crime. In 2003, authorities made 14 arrests based on charges of child sexual exploitation. Authorities indicted eight defendants and placed six suspects in investigative detention pending formal charges. By year's end, four of those arrested in 2003 were convicted, and the case against a fifth individual was dropped.

Government agencies responsible for combating trafficking and child sexual exploitation included the Special Prosecutor on Domestic Violence and Sex Crimes, the Judicial Investigative Police, the National Institute for Children, the Foreign Ministry, the Labor Ministry, the Public Security Ministry, and the Tourism Ministry.

Cases of trafficking involved persons from Colombia, the Dominican Republic, Panama, Nicaragua, the Philippines, Russia, and countries of Eastern Europe. While evidence suggested that most trafficked persons remained in the country, some transited to Canada, Mexico, and the United States. Some female citizens, generally from impoverished backgrounds, also were trafficked to Canada, Mexico, and the United States. Traffickers often recruited victims with a promise of secure employment and good pay.

Child prostitution was a serious problem. PANI estimated that 3,000 children suffered from commercial sexual exploitation and identified particular risks for street children in the urban areas of San Jose, Limon, and Puntarenas. During the year, PANI reported that it provided assistance to minors in 87 separate cases of commercial sexual exploitation.

The Special Prosecutor's Office on Domestic Violence and Sexual Crimes has processed 66 child sexual exploitation cases and convicted 31 citizens and 9 foreigners for child sexual exploitation crimes since 1999.

From January through June, Casa Alianza presented the Government with 54 complaints for promoting the prostitution of minors, 28 complaints for sexual relations with minors, and 7 complaints for the production of child pornography. The Special Prosecutor's office reported that, as of September, it was investigating 31 cases of sexual relations with minors.

A governmental Inter-Ministerial Group on Trafficking made efforts to raise awareness of trafficking issues and sexual exploitation of children and encourage law enforcement and prevention measures, particularly at the local level; however, these efforts were hampered by a lack of resources.

There were limited formal mechanisms specifically designed to aid trafficked victims; however, the Government offered indirect assistance, such as stay-in-school programs, to child victims of trafficking. Victims were not granted temporary or permanent residence status and often were deported immediately to their country of origin.

Persons With Disabilities.—There was no discrimination against persons with disabilities in education, access to health care, or in the provision of other state services. Reports of discrimination in employment sometimes occurred. The law mandates access to buildings for persons with disabilities, but the Government did not enforce this provision in practice, and many buildings remained inaccessible. The Ministry of Education operated a Program for Persons with Disabilities, including a national resource center that provided parents, students, and teachers with advanced counseling, training, and information services. The Ministry reported that 13,162 special education students were registered in the school system during the year, and there were 1,378 special education centers to assist special education students and students with disabilities.

Indigenous People.—The population includes nearly 64,000 indigenous persons among 8 ethnic groups. Approximately 73 percent lived in traditional communities on 22 reserves, which, because of their remote location, often lacked access to schools, health care, electricity, and potable water. The Law of the Indigenous People nominally protects reserve land as the collective, nontransferable property of the indigenous groups; however, some indigenous landowners sold their land to pay off debts, sometimes illegally to nonindigenous people. The Ombudsman had an office to investigate violations of the rights of indigenous people and sought to return reserve land to indigenous groups.

Section 6. Worker Rights

a. The Right of Association.—The law specifies the right of workers to join unions of their choosing without prior authorization, and workers exercised this right in practice. The Labor Code also guarantees freedom of association in the negative sense; that is, the right not to join a union and to leave a union, and accordingly prohibits any action that might infringe that right. About 12 percent of the work force was unionized, and approximately 80 percent of all union members were public sector employees. Unions operated independently of government control.

Some trade union leaders contended that the existence of worker "solidarity associations" in some enterprises displaced unions and discouraged collective bargaining; however, the law prohibits these non-dues-collecting organizations from representing workers in collective bargaining negotiations or in any other way assuming the functions of or inhibiting the formation of trade unions. Instead, they offered membership services, including credit union programs, matching-fund savings accounts, and low-interest loans. Approximately 330,000 workers were members of solidarity associations, 95 percent of whom worked in the private sector.

Specific provisions of the Labor Code provide protection from dismissal for union organizers and members during union formation, including reinstating workers fired for union activities; however, enforcement was lax, and employers often failed to comply with this provision in practice.

The Ministry of Labor continued to work on clearing a number of labor cases pending from previous years, including cases of workers allegedly fired for union activities. From January to November, the Center for Alternative Resolution of Labor Disputes handled 2,014 cases, of which 881 cases were submitted to reconciliation, 73 percent of which resulted in an agreement between the parties.

b. The Right to Organize and Bargain Collectively.—Workers exercised the constitutional right to organize and the right to voluntary collective bargaining. Foreign nationals are expressly prohibited from exercising direction or authority in unions. There are no special laws or exemptions from regular labor laws in export processing zones.

If a trade union, of which at least 34 percent of the workforce are members, requests collective bargaining, the employer is obligated to initiate the bargaining process.

Private sector unions had the legal right to engage in collective bargaining; however, direct arrangements were used more commonly. The Ministry of Labor reported that, from 1999 through the end of the year, there were 315 direct arrangements in the private sector compared to 22 collective agreements.

The law provides for the right to strike, and workers exercised this right in practice; however, unions complained of burdensome administrative requirements in order for a strike to be legal. The law requires that at least 60 percent of the workers in the enterprise support strike action. Pursuant to a Constitutional Court ruling, restrictions on the right to strike apply only to essential services that concern the national economy or public health.

From July through August, air traffic controllers went on strike for 47 days. The Government brought in replacement controllers from other Latin American countries to continue airport operations. The labor courts ruled the strike illegal, and the Government prepared to fire the controllers, but the Government instead reached a settlement.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Constitution and the Labor Code provide special occupational protection for minors and establish a minimum working age of 15 years. Adolescents between the ages of 15 and 18 may work for a maximum of 6 hours daily and 36 hours weekly with special permission from PANI. The law prohibits night work and overtime for minors. Certain activities considered to be unhealthy or hazardous typically require a minimum age of 18. In addition, minors are entitled to facilities allowing them to attend educational establishments, through school arrangements and timetables adapted to their interests and employment conditions, and to participate in apprenticeship training programs.

The Labor Ministry, in cooperation with PANI, generally enforced these regulations in the formal sector. Due to limited government resources for enforcement, some children worked on the fringes of the formal economy in violation of these limits. The banana industry did not employ youths under the age of 18.

Child labor was a problem mainly in the informal sector of the economy, including small-scale agriculture, domestic work, and family-run enterprises. Child prostitution and other types of child sexual exploitation remained serious problems (*see* Section 5).

The country had a national program of action on child labor, and the Government continued to work with the ILO and other organizations to eradicate this problem. The Ministry of Labor maintained an Office for the Eradication of Child Labor, which is responsible for coordinating government efforts and programs targeted at child labor. During the year, the Government continued to provide small loans and economic aid to families with at-risk children and scholarships for poor families to cover the indirect costs of attending school. During the year, the Government and NGOs also initiated a new child labor awareness campaign and continued to implement a number of projects to remove children from work and return them to school.

The Office for the Eradication of Child Labor reported that, from January to August, it registered 740 cases in its child labor database, of which 350 were children working under the legal employment age of 15. The Ministry provided assistance in reinserting the children into education institutions.

e. Acceptable Conditions of Work.—The Constitution provides for a minimum wage, which is set by the National Wage Council. Monthly minimum wages for the private sector ranged from approximately $133 (59,593 colones) for domestic employees to approximately $523 (234,503 colones) for university graduates. The Ministry of Labor effectively enforced minimum wages in the San Jose area, but it did so less effectively in rural areas, especially those where large numbers of migrants were employed. At the lower end of the scale, the national minimum wage did not provide a decent standard of living for a worker and family.

The Constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Generally, workers may work a maximum of 8 hours during the day and 6 at night, up to weekly totals of 48 and 36 hours, respectively. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. However, agricultural workers did not receive overtime pay if they worked voluntarily beyond their normal hours.

The law requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the Government to inspect workplaces and to fine employers for violations. Most firms subject to the law established such committees, but they either did not use the committees or did not turn them into effective instruments for improving workplace conditions. Resource constraints continued to hinder the Inspection Directorate's ability to carry out its inspection mandate. Workers have the right to leave work if conditions become dangerous; however, workers who did so may jeopardize their jobs unless they file written complaints with the Ministry of Labor.

CUBA

Cuba is a totalitarian state controlled by Fidel Castro, who is chief of state with the titles of president, head of government, first secretary of the Communist Party (CP), and commander in chief of the armed forces. The regime exercises control over all aspects of life through the CP and its affiliated mass organizations, the government bureaucracy headed by the Council of State, and the state security apparatus. In March 2003, he declared his intent to remain in power for life. The CP is the only legal political entity, and President Castro personally chooses the membership of the Politburo, the select group that heads the CP. There are no contested elections for the 609 member National Assembly of People's Power (ANPP), which meets twice a year for several days to rubber stamp decisions and policies previously decided by the governing Council of State. In 2003, government supporters won all 609 ANPP seats in uncontested elections. In 2003, the Government also held a referendum making the socialist character of the constitution "untouchable." The CP controls all government positions, including judicial offices. The judiciary is completely subordinate to the Government and to the CP.

The Ministry of Interior is the principal instrument of state security and control. Officers of the Revolutionary Armed Forces, which are led by Fidel Castro's brother, General Raul Castro, have occupied the majority of key positions in the Ministry of Interior during the past 15 years. In addition to the routine law enforcement functions of regulating migration and controlling the Border Guard and the regular police forces, the Interior Ministry's Department of State Security investigated and suppressed political opposition and dissent. It maintained a pervasive system of sur-

veillance through undercover agents, informers, rapid response brigades (RRBs), and neighborhood based Committees for the Defense of the Revolution (CDRs). The Government traditionally has used the CDRs to mobilize citizens against dissenters, impose ideological conformity, and root out "counterrevolutionary" behavior. RRBs consisted of workers from a particular brigade such as construction or factory workers organized by the CP to react forcefully to any situation of social unrest. The Government on occasion used RRBs instead of the police or military during such situations. Members of the security forces committed numerous, serious human rights abuses.

The economy was centrally planned, with some elements of state managed capitalism in sectors such as tourism and mining. The country's population was approximately 11 million. Exports largely were restricted to primary products such as sugar and minerals, but tourism and emigre remittances were key sources of hard currency. Inefficiency, outdated infrastructure, and natural disasters led to the lowest sugar harvest in 70 years in 2003, with only a slight recovery during the year and continued low yields projected for 2005. The Government announced economic growth of 5 percent during the year using a new, unique way of calculating gross domestic product that ostensibly gives greater weight to social programs.

The State controlled approximately 90 percent of the formal economy, and the Government continued to harass citizens working in the underground economy. Less than 2 percent of citizens worked in the highly regulated private sector. In August, the Government issued a resolution allowing citizens with certain private sector licenses to exercise the right to work in the licensed field only after completing a full day of work in their regular government job. In October, the Government began a policy of cancelling the issuance of new work licenses in 40 private sector categories.

Government policy officially was aimed at preventing economic disparity, but citizens with access to foreign currency enjoyed a significantly higher standard of living than those with only pesos. In November, after 9 years as legal tender, the Government disallowed the use of the U.S. dollar and began charging a 10 percent surcharge to exchange dollars to "convertible pesos." A convertible peso is equivalent to one U.S. dollar. The vast majority of citizens earned their salaries in pesos and only had access to convertible pesos if they worked in the tourist sector or received remittances from abroad. A system of "tourism apartheid" continued, whereby citizens often were denied access to hotels, beaches, and resorts reserved for foreigners.

The Government's human rights record remained poor, and the Government continued to commit numerous, serious abuses. Citizens did not have the right to change their government peacefully. Although the Constitution allows legislative proposals backed by at least 10,000 citizens to be submitted directly to the ANPP, in 2002 and 2003, the Government rejected 2 petitions, known as the Varela Project, with more than 25,000 signatures, calling for a national referendum on political and economic reforms. CP affiliated mass organizations tightly controlled elections to provincial and national legislative bodies, resulting in the selection of single, government approved candidates. In March 2003, the Government arrested 75 human rights activists, subjected them to summary trials, and sentenced them to prison terms ranging from 6 to 28 years. During the year, authorities arrested an additional 22 human rights activists and sentenced them for acts such as contempt for authority.

Members of the security forces and prison officials continued to beat and abuse detainees and prisoners, including human rights activists. The Government failed to prosecute or sanction adequately members of the security forces and prison guards who committed abuses. Prison conditions remained harsh and life threatening, and the Government restricted medical care to some prisoners as a method of control. Prisoners died in jail due to lack of medical care. The authorities routinely continued to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers. The Government denied political dissidents and human rights advocates due process and subjected them to unfair trials. The Government infringed on citizens' privacy rights. The Government denied citizens the freedoms of speech, press, assembly, and association and closely monitored domestic and international journalists through physical and electronic surveillance. It limited the distribution of foreign publications and news, restricted access to the Internet, and strictly censored news and information. The Government restricted some religious activities but permitted others. The Government limited the entry of religious workers to the country. The Government tightly restricted freedom of movement, including foreign travel, and did not allow some citizens to leave the country. The Government controlled internal movements and used external exile to punish dissenters. The Government did not permit domestic human rights groups to function legally, sharply and publicly rejected all criticism of its

human rights practices, and discouraged foreign contacts with human rights activists. Violence against women, especially domestic violence, and underage prostitution were problems. Racial discrimination was a problem. The Government severely restricted worker rights, including the right to form independent unions.

RESPECT FOR HUMAN RIGHTS

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

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

Unlike in 2003, there were no reports during the year of the Government summarily executing its citizens.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits abusive treatment of detainees and prisoners; however, members of the security forces sometimes beat and otherwise abused human rights advocates, detainees, and prisoners. The Government took no steps to curb these abuses. There continued to be numerous reports of disproportionate police harassment of black youths (*see* Section 5).

On August 2, Nivaldo Diaz Castello, a Varela Project leader, was detained by State Security agents, threatened, and stripped of all his belongings before being released.

The Government continued to subject persons who disagreed with it to what it called acts of repudiation. At government instigation, members of state controlled mass organizations, fellow workers, or neighbors of intended victims were obliged to stage public protests against those who dissented from the Government's policies, shouting obscenities and often causing damage to the homes and property of those targeted; physical attacks on the victims sometimes occurred. Police and State Security agents often were present but took no action to prevent or end the attacks. Those who refused to participate in these actions faced disciplinary action, including loss of employment.

On March 5 and March 17, an unknown group stoned the house of activists Tomas Gonzalez Coya Rodriguez and Beatriz Pacheco Nunez, of Santa Clara, breaking down the front door. The stones were wrapped in paper on which obscenities were written. The family also received anonymous death threats via phone.

On April 19, assailants pelted the Havana home of Henry Samuel, President of the Republican Alternative Movement, with jars of human excrement. Samuel reported the incident to the National Revolutionary Police (PNR), which took no action.

On September 8, Elsa Morejon reported that on several occasions during the year, large groups of people had gathered around her home to yell profanities and insult her husband, human rights activist Dr. Oscar Elias Biscet, who was arrested in 2002 for "acts against the independence or the territorial integrity of the State."

Prison conditions continued to be harsh and life threatening, and conditions in detention facilities also were harsh. The Government claimed that prisoners enjoyed rights such as family visitation, adequate nutrition, pay for work, the right to request parole, and the right to petition the prison director. Police and prison officials, however, often denied these rights in practice, and beat, neglected, isolated, and denied medical treatment to detainees and prisoners, including those convicted of political crimes or those who persisted in expressing their views. Political prisoners in particular often were held at facilities hundreds of miles from their families, placing an undue hardship on many families' time and financial resources.

The Penal Code prohibits the use of corporal punishment on prisoners and the use of any means to humiliate prisoners or to lessen their dignity; however, the Code fails to establish penalties for committing such acts, and they continued to occur in practice. Detainees and prisoners, both common and political, often were subjected to repeated, vigorous interrogations designed to coerce them into signing incriminating statements, to force collaboration with authorities, or to intimidate victims. Some endured physical and sexual abuse, typically by other inmates with the acquiescence of guards, or long periods in punitive isolation cells. Pretrial detainees were generally held separately from convicted prisoners, although some long term detainees, including political detainees, were held with convicted prisoners. In Havana, there were two detention centers; once sentenced, persons were transferred to a prison.

Fabio Prieto Llorente, one of the 75 activists arrested in March 2003, reported he was held in a small cell with leaky walls and a cement slab for a bed. The cell was

infested with rats, frogs, and insects. Prieto was serving a 20 year sentence for "acts against the independence or the territorial integrity of the State."

Prisoners sometimes were held in "punishment cells," which usually were located in the basement of a prison, with continuous semi dark conditions, no available water, and a hole for a toilet. Reading materials, including Bibles, were not allowed, and unlike in previous years, authorities denied visits to families of political prisoners while they were held in these cells. Prisoners in punishment cells had no access to lawyers.

On January 1, Jose Daniel Ferrer Garcia, a Varela Project leader and one of the 75 activists arrested in March 2003, reported serving 45 days in a punishment cell for protesting the suspension of correspondence and the delivery of food and medical supplies from his family. He did not receive food or water during the first 3 days of his confinement and slept on a cement floor. Authorities confiscated his Bible and prohibited any contact with other prisoners. Ferrer was serving a 25 year sentence for "acts against the independence or the territorial integrity of the State."

On July 5, Elsa Morejon reported that her husband, Dr. Biscet, was sent to a punishment cell for refusing to eat in the prison cafeteria, wear the uniform of common prisoners, and stand at attention when guards entered his cell. He was not permitted to read, write, or leave his cell to get exercise. In addition, prison authorities refused to accept food and medical supplies brought by Morejon or permit anyone to bring him food. As a result, Biscet found himself on a virtual hunger strike.

Prison guards and State Security officials subjected human rights and pro democracy activists to threats of physical violence, to systematic psychological intimidation, and to detention or imprisonment in cells with common and violent criminals, sexually aggressive inmates, or State Security agents posing as prisoners.

On January 21, Yeni Veloz Oquendo, wife of common prisoner Estany Rodriguez Preval, reported that jailers at Valle Grande prison had sexually abused her husband.

On June 17, Ana Aguililla, wife of political prisoner Francisco Chaviano, arrested in May 1994 for "revealing state security secrets," reported that prison authorities forced Chaviano from his cell, stripped him, and publicly beat him.

On July 6, family members of political prisoner Jorge Luis Garcia Perez, arrested in 1990 for articulating "enemy propaganda," reported being beaten along with Garcia during a prison visit. Authorities handcuffed and beat Garcia and later punched his sister and kicked his girlfriend's 9 year old son after the visitors protested the harsh treatment.

On August 3, Yarai Reyes, wife of Normando Hernandez Gonzalez, 1 of the 75 political prisoners arrested in March 2003, reported that prison authorities incited common prisoners to beat her husband. Hernandez was serving a 25 year sentence for "acts against the independence or the territorial integrity of the State."

The Government regularly failed to provide adequate nutrition and medical attention, and approximately 10 to 20 prisoners reportedly died due to lack of medical attention. Both the Inter-American Commission on Human Rights (IACHR) and the Representative for Cuba of the High Commissioner for Human Rights, as well as other human rights monitoring organizations, have reported the widespread incidence in prisons of tuberculosis, scabies, hepatitis, parasitic infections, and malnutrition. In April, Amnesty International (AI) and Human Rights Watch (HRW) issued reports expressing concern regarding the poor health of numerous political prisoners, the limitations on family visits for some political prisoners, and the incarceration of many political prisoners far from their home provinces. The Government did not respond to AI or HRW.

Oscar Espinosa Chepe, a political prisoner released during the year, reported that prison officials regularly denied him adequate medical treatment during his 20-month incarceration.

On April 13, Jorge Luis Garcia Perez reported the deaths of three common prisoners, Vidal Caerencio de la Hoz Avila, Felix Hernandez Soa, and Didier Marrero Pereira, because they had not received emergency medical attention.

On June 14, Masiel Gutierrez, wife of Rolando Jimenez Posada, a human rights activist arrested in April 2003 without any formal charges, reported that her husband had been beaten and placed in a punishment cell for demanding his asthma medication.

On August 29, Barbara Rojo Arias, wife of Omar Ruiz Hernandez, an independent journalist and 1 of the 75 human rights activists arrested in March 2003, reported that her husband was denied access to required medications for his heart condition and stomach problems. Ruiz was serving an 18 year sentence for "acts against the independence or the territorial integrity of the State."

During the year, the Government released 18 political prisoners, reportedly for medical reasons.

Prison officials regularly denied prisoners other rights, such as the right to correspondence, and continued to confiscate medications and food brought by family members for political prisoners. Some prison directors routinely denied religious workers access to detainees and prisoners.

On March 11, in a letter to his wife Gisela Sanchez Verdecia, Antonio Diaz Sanchez complained that prison authorities confiscated and censored his correspondence.

Martha Beatriz Roque Cabello, a political prisoner released during the year, reported that prison authorities denied her access to religious workers during her entire 16 month incarceration. She also stated that prison authorities offered religious services to common prisoners but threatened prisoners who exercised this right with denial of privileges, such as visits and correspondence.

There were separate prison facilities for women and for minors. Human rights activists believed that conditions in these facilities were poor. The law provides that pretrial detainees are held separately from convicted prisoners; however, the law was seldom enforced in practice, often because of a lack of facilities.

The Government did not permit independent monitoring of prison conditions by international or national human rights monitoring groups. The Government has refused to allow prison visits by the International Committee of the Red Cross (ICRC) since 1989. In April, for the first time in 15 years, the Government invited a group of international journalists to visit two selected prison hospital wards. Many participants dismissed the visits as staged propaganda.

d. Arbitrary Arrest or Detention.—Arbitrary arrest and detention continued to be problems, and they remained the Government's most effective and commonly used tactics for harassing opponents. The Law of Penal Procedures requires police to file formal charges and either release a detainee or bring the case before a prosecutor within 96 hours of arrest. It also requires the authorities to provide suspects with access to a lawyer within 7 days of arrest. However, the Constitution states that all legally recognized civil liberties can be denied to anyone who actively opposes the decision of the people to build socialism. The authorities routinely invoked this sweeping authority to deny due process to those detained on purported state security grounds.

The Ministry of the Interior exercises control over police and internal security forces. The PNR is the primary law enforcement organization and generally was effective in investigating common crimes. Specialized units of the Ministry of the Interior are responsible for monitoring, infiltrating, and suppressing opposition political groups. The PNR plays a supporting role by carrying out house searches and providing interrogation facilities for State Security agents. There were some reports in both the independent and official press of bribery and corruption within the security forces.

The authorities routinely engaged in arbitrary arrest and detention of human rights advocates, subjecting them to interrogations, threats, degrading treatment, and unsanitary conditions for hours or days at a time. Police frequently lacked warrants when carrying out arrests or issued warrants themselves at the time of arrest. Authorities sometimes employed false charges of common crimes to arrest political opponents. Detainees often were not informed of the charges against them. The authorities continued to detain human rights activists and independent journalists for short periods, including house arrest, often to prevent them from attending or participating in events related to human rights issues (*see* Sections 2.a. and 2.b.).

Time in detention before trial counted toward time served if convicted. Bail was available and usually was low and more equivalent to a fine.

During the year, authorities arrested 22 human rights activists, including 3 Varela Project organizers and an independent librarian. By year's end, 13 of the 22 had been tried and sentenced.

On February 4, authorities arrested independent librarian Jose Agramonte Leiva for contempt for authority, specifically for having yelled, "Down with Fidel!" At year's end, he remained incarcerated awaiting trial (*see* Section 2.a.).

On April 19, authorities arrested Alexis Garcia Pena and Walter Lopez Gonzalez of the Christian Liberation Movement for their activities in promotion of the Varela Project.

In March 2003, authorities arrested 75 human rights activists, journalists, and opposition political figures, charging them with violating national security and aiding a foreign power, among other crimes. The U.N. High Commissioner for Human Rights expressed concern regarding the arrests and summary trials, as did many governments, international organizations, and public figures. During the year, the Government released 14 of the 75 activists, including Martha Beatriz Roque Cabello of the Assembly to Promote Civil Society, independent journalist Raul Rivero, inde-

pendent journalist and economist Oscar Espinosa Chepe, and independent journalist and poet Manuel Vasquez Portal. At year's end, the other 61 activists remained in prison.

During the year, the 15 remaining persons arrested near the Mexican Embassy in 2002 remained in prison awaiting trial, which was scheduled for January 2005.

At year's end, at least 13 political detainees were awaiting trial, many of whom had been held for more than 1 year.

The Government often held persons without charges for months. On April 27, after more than 25 months in prison, authorities sentenced 10 human rights activists and independent journalists arrested in 2002, including blind human rights activist Juan Carlos Gonzalez Leyva (*see* Section 1.e). Gonzalez Levya subsequently was released conditionally and told he could not leave his home province of Ciego de Avila without express government permission.

The Government also often released activists after months of detention without charges.

On June 8, authorities released Leonardo Bruzon Avila, Carlos Alberto Dominguez, Emilio Leyva Perez, and Lazaro Rodriguez Capote after 28 months of imprisonment without trial.

The authorities sometimes detained independent journalists to question them about contacts with foreigners or to prevent them from covering sensitive issues or criticizing the Government (*see* Section 2.a.).

The Penal Code includes the concept of "dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to therapy or political reeducation. Government authorities regularly threatened prosecution under this provision. Both the U.N. Commission on Human Rights (UNCHR) and the IACHR criticized this tactic for its arbitrariness, the summary nature of the judicial proceedings employed, the lack of legal safeguards, and the political considerations behind its application. According to the IACHR, the so called special inclination to commit crimes referred to in the Penal Code amounted to a subjective criterion used by the Government to justify violations of individual freedoms and due process for persons whose sole crime was to hold a view different from the official view.

e. Denial of Fair Public Trial.—The Constitution provides for independent courts; however, it explicitly subordinates the courts to the ANPP and the Council of State. The ANPP and its lower level counterparts choose all judges. The subordination of the courts to the CP, which the Constitution designates as the superior directive force of society and the State, further compromises the judiciary's independence. The courts undermined the right to a fair trial by restricting the right to a defense and often failed to observe the few due process rights available to defendants.

Civilian courts existed at the municipal, provincial, and supreme court levels. Panels composed of a mix of professionally certified and lay judges presided over them. There was a right to appeal, access to counsel, and charges were generally known to the defendant, although many political detainees subjected to summary trials in April 2003 were unaware of the charges against them until moments before trial. The law presumes the innocence of the accused, but the authorities often ignored this right in practice.

The law and trial practices did not meet international standards for fair public trials. Almost all cases were tried in less than 1 day; there were no jury trials. While most trials were public, trials were closed when there were alleged violations of state security. Prosecutors may introduce testimony from a CDR member about the revolutionary background of a defendant, which may contribute to either a longer or shorter sentence. The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases such as those involving maximum prison terms or the death penalty. Appeals in capital cases are automatic. The Council of State ultimately must affirm capital punishment.

Criteria for presenting evidence, especially in cases involving human rights advocates, were arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, was the defendant's confession, usually obtained under duress and without the legal advice or knowledge of a defense lawyer (*see* Section 1.c.). The authorities regularly denied defendants access to their lawyers until the day of the trial. Several dissidents who served prison terms reported that they were tried and sentenced without counsel and were not allowed to speak on their own behalf.

On April 27, after 25 months in prison, the Government tried Juan Carlos Gonzalez Leyva, of the Cuban Foundation of Human Rights, and sentenced him to 4

years in prison. He was released conditionally with credit for time served, but told he could not leave the province of Ciego de Avila without government permission. Gonzalez was arrested in 2002 after an "illegal gathering" in support of an independent journalist who had been beaten by State Security agents.

On April 27, the Government tried Antonio and Enrique Garcia Morejon of the Christian Liberation Movement and sentenced them to 3 ½ years' imprisonment each for attending the same gathering as Gonzalez Leyva.

On May 18, after 18 months in prison, the Government sentenced Raul Arencibia Fajardo, Orlando Zapata Tamayo, and Virgilio Marantes Guelmes to 3 years' imprisonment for public disorder, contempt for authority, and resistance. The three were members of different organizations, but were arrested together in 2002.

In April 2003, the Government arrested, summarily tried, convicted, and sentenced 75 political activists within a period of 20 days. Authorities did not reveal the charges against them and denied access to counsel until the day of the trial. Much of the evidence against the defendants consisted of unsubstantiated or unspecified allegations of activities against the Government on behalf of a foreign power and vague accusations of "counterrevolutionary" behavior. AI determined that all 75 jailed activists were "prisoners of conscience."

The law provides the accused with the right to an attorney, but the control that the Government exerted over the livelihood of members of the state controlled lawyers' collectives compromised their ability to represent clients, especially those accused of state security crimes. Attorneys reported reluctance to defend those charged in political cases due to fear of jeopardizing their own careers.

Military tribunals assumed jurisdiction for certain counterrevolutionary cases and were governed by a special law. The military tribunals processed civilians if a member of the military was involved with civilians in a crime. There was a right to appeal, access to counsel, and the charges were known to the defendant.

Human rights monitoring groups inside the country estimated the number of political prisoners at approximately 300. The authorities imprisoned persons on charges such as disseminating enemy propaganda, illicit association, contempt for the authorities (usually for criticizing President Castro), clandestine printing, or the broad charge of rebellion, which often was brought against advocates of peaceful democratic change. The Government continued to deny human rights organizations and the ICRC access to political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution provides for the inviolability of a citizen's home and correspondence; however, official surveillance of private and family affairs by government controlled mass organizations, such as the CDRs, remained one of the most pervasive and repressive features of daily life. The Government employed physical and electronic surveillance against nonviolent political opponents. The State assumed the right to interfere in the lives of citizens, even those who did not oppose the Government and its practices actively. The authorities utilized a wide range of social controls. The mass organizations' ostensible purpose was to improve the citizenry, but their real goal was to discover and discourage nonconformity. Although official statistics indicated that CDRs have grown over the past decade and included 93.5 percent of the population over the age of 14, in reality, citizen participation in these mass organizations declined. Economic constraints both reduced the government's ability to provide material incentives for their participation and forced many persons to engage in black market activities, which the mass organizations were supposed to report to the authorities.

The Ministry of Interior employed an intricate system of informants and block committees (the CDRs) to monitor and control public opinion. While less capable than in the past, CDRs continued to report on suspicious activity, including: Conspicuous consumption; unauthorized meetings, including those with foreigners; and defiant attitudes toward the Government and the revolution.

The Government controlled all access to the Internet, and censored all electronic mail messages. Dial up Internet service was prohibitively expensive for most citizens. State Security often read international correspondence and monitored overseas telephone calls and conversations with foreigners. The Government also monitored domestic phone calls and correspondence, and sometimes denied telephone service to dissidents. Cell phones generally were not available to average citizens.

On January 14, Barbara Lorenzo, who had attempted to emigrate illegally, reported that police and other State Security agents threatened to imprison her and take away her 3 year old daughter if she attempted to leave the country again.

On October 18, Varela Project volunteer Ricardo Montes Puron reported that State Security agents threatened to take away his granddaughter, whom he had custody of and legally was trying to adopt, if he did not leave the organization.

There were numerous credible reports of forced evictions of squatters and residents who lacked official permission to reside in Havana.

On March 19, State Security agents forced independent journalist Carlos Garcell Perez to abandon his father in law's house, where he had been living because Garcell did not have government permission to live in the house. Agents threatened the father in law and informed him that his granddaughter would lose her job if he continued to allow Garcell to live in the house.

The Government sometimes punished family members for the activities of their relatives. On July 15, Dayli Tejeda Herrera, a third year chemistry student, was expelled from the Central University of Las Villas for "being the daughter of a counterrevolutionary." Her father, Miguel Tejeda Tenorio, was the secretary general of the illegal Christian Workers Union of Las Villas.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press insofar as they "conform to the aims of socialist society"; this clause effectively bars free speech. In law and in practice, the Government did not allow criticism of the revolution or its leaders. Laws against anti government propaganda, graffiti, and disrespect of officials impose penalties between 3 months and 1 year in prison. If President Castro or members of the ANPP or Council of State were the objects of criticism, the sentence could be extended to 3 years. Charges of disseminating enemy propaganda, which included merely expressing opinions at odds with those of the Government, could result in sentences of up to 14 years. In the Government's view, such materials as the Universal Declaration of Human Rights, to which the country is a signatory, international reports of human rights violations, and mainstream foreign newspapers and magazines, constituted enemy propaganda. Local CDRs inhibited freedom of speech by monitoring and reporting dissent or criticism. Police and State Security officials regularly harassed, threatened, and otherwise abused human rights advocates in public and private to intimidate them.

The Constitution states that print and electronic media are state property and can never become private property. The CP controlled all media except for a few small, unauthorized church run publications. The Penal Code bars "clandestine printing" and provides for 3 to 6 months' imprisonment for failure to identify the author of a publication or the printing press used to produce the publication. Even the Catholic church run publications, denied access to mass printing equipment, were subject to governmental pressure. Vitral magazine, a publication of the diocese of Pinar del Rio, continued to publish during the year, although officials publicly described it as "counterrevolutionary propaganda." The Cuban Conference of Catholic Bishops indicated that the Church did not register its publications with the Ministry of Culture as required by law because registration would force it to cede control to the State.

Citizens did not have the right to receive or possess publications from abroad, although news stands in hotels for foreigners and certain hard currency stores sold foreign newspapers and magazines. The Government continued to jam the transmission of Radio Marti and Television Marti. Radio Marti broadcasts at times overcame the jamming attempts on short wave bands, but its medium wave transmissions were blocked completely in Havana. State Security agents subjected dissidents, foreign diplomats, and journalists to harassment and surveillance, including electronic surveillance and surreptitious entry into their homes.

All legal media must operate under CP guidelines and reflect government views. The Government attempted to shape media coverage to such a degree that it pressured not only domestic journalists but also groups normally outside official controls, such as visiting and resident international correspondents. The Government barred some foreign journalists from entering the country.

Law 88 outlaws a broad range of activities that undermine state security and toughens penalties for criminal activity. Under the law, anyone possessing or disseminating "subversive" literature or supplying information that U.S. authorities could use to apply U.S. legislation, may be subject to fines and prison terms of 7 to 20 years for each charge. AI expressed "grave concern" regarding the application of Law 88, which it said appeared to place "unlawful restrictions on internationally recognized rights."

In 2003, authorities arrested and sentenced more than 30 independent journalists and human rights activists under Law 88. Reporters without Borders (RSF) continued its campaign on behalf of the imprisoned journalists.

At year's end, 22 independent journalists arrested in March 2003 for violating Law 88, including Ricardo Gonzalez Alonso, remained in prison.

On February 4, the Government arrested Jose Agramonte Leiva, of the Project for Independent Libraries, on charges of contempt for authority for yelling "Down with Fidel!" Agramonte was still awaiting trial at year's end (*see* Section 1.c.).

The Government continued to subject independent journalists to: Internal travel bans; arbitrary and periodic detentions (overnight or longer); harassment of family and friends; seizures of computers, office, and photographic equipment; and repeated threats of prolonged imprisonment. Independent journalists in Havana reported that threatening phone calls and harassment of family members continued during the year. The authorities also placed journalists under house arrest to prevent them from reporting on human rights conferences and events and on court cases against activists. In addition, police increasingly tried to prevent independent journalists from covering so called sensitive events. AI, HRW, the Inter American Press Association, RSF, and the CPJ criticized the imprisonment of journalists and the Government's continued practice of detaining independent journalists and others simply for exercising their right to free speech.

The Government used Ministry of the Interior agents to infiltrate and report on independent journalists.

The authorities often confiscated journalists' equipment, especially photographic and recording equipment. Fax machines or computers could be purchased only using inconvertible pesos, with government permission; however, even if a receipt could be produced, police often confiscated equipment. Journalists reported that photocopiers and printers either were unavailable locally or the stores refused to sell them to individuals. During the year, the Government increased its efforts to confiscate satellite television antennas, which it considered "subversive materials."

Resident foreign correspondents reported that the very high level of government pressure experienced since 2000, including official and informal complaints about articles, continued throughout the year. The Government controlled members of the resident foreign press by requiring them to obtain an exit permit each time they wished to leave the country. The Government also forced foreign correspondents to hire local staff from government agencies.

Distribution of information continued to be controlled tightly. Importation of foreign literature was controlled, and the public was unable to receive or possess foreign magazines or newspapers. Leading members of the Government asserted that citizens did not read foreign newspapers and magazines because they had access to government media, including the daily televised government led discussion on the issues which they needed to concern themselves. The Government sometimes barred independent libraries from receiving materials from abroad and seized materials donated by foreign diplomats.

By year's end, 8 of 9 independent librarians arrested in March 2003 and convicted of violating Law 88 or for "acts against the independence or the territorial integrity of the State" remained in prison, under sentences of 13 to 26 years' imprisonment.

The Government controlled all access to the Internet, and all electronic mail messages were subject to government review and censorship. In November, RSF issued a report noting the severe repression of online freedom of expression. Access to computers and peripheral equipment was limited, and the Internet could be accessed only through government approved institutions. On January 12, the Ministry of Information and Communications issued a report stating there were 750 websites based in the country, including 1,100 ".cu" domains, many of which were hosted outside the country. Dial up access to government approved servers was prohibitively expensive for most citizens. For example, cyber cafes routinely charged 6 convertible pesos (150 pesos) per hour, nearly the average worker's monthly salary. Only foreigners were permitted to purchase Internet access cards from the national telephone monopoly, ETECSA. As a result, clandestine Internet connections continued to increase, and it was estimated that more than 40,000 of these connections were made during the year.

On January 24, the Ministry of Information and Communications enacted a resolution stating that direct access to the Internet only would be available through telephone lines paid for in dollars, in an attempt to restrict access "for the social good." In August, the Government closed six cyber cafes in Camaguey for not serving the "social good," leaving only one Internet cafe in the entire province. AI expressed concern stating, "the new measures constitute yet another attempt to cut off Cubans' access to alternative views and a space for discussing them."

E-mail use grew slowly as the Government allowed access to more users; however, the Government still permitted access to very few persons or groups. In 2003, the Government blocked instant messaging programs. In 2002, the Government opened a national Internet gateway to some journalists, artists, and municipal level youth community centers, but the authorities continued to restrict the types and numbers of international sites that could be opened. The Government did not permit Catholic Church representatives to have Internet access.

The Government officially prohibits all diplomatic missions in Havana from printing or distributing publications, particularly newspapers and newspaper clippings,

unless these publications exclusively address conditions in a mission's home country and prior government approval is received. Many missions did not accept this requirement and distributed materials; however, the Government's threats to expel embassy officers who provided published materials had a chilling effect on some missions.

The Government restricted literary and academic freedoms and continued to emphasize the importance of reinforcing revolutionary ideology and discipline at the expense of freedom of expression. The educational system taught that the State's interests took precedence over all other commitments. Academics, government journalists, and other government officials were prohibited from meeting with some diplomats without prior approval from the Ministry of Foreign Affairs. The Ministry of Education required teachers to evaluate students' and their parents' ideological character and to place such evaluations in school records. These reports directly affected students' educational and career prospects. Government policy required teaching materials for courses such as mathematics or literature to have an ideological content. Government efforts to undermine dissidents included denying them advanced education and professional opportunities. Government controlled public libraries denied access to books or information if the requestor was unable to produce a letter of permission from the proper government ministry. In 2003, President Castro stated publicly that the universities were open only to those who shared his revolutionary beliefs.

On February 22, an official of the Association for the Promotion and Development of Literature barred independent journalist Abela Soto from a literary presentation in Pinar del Rio, stating that the event was "only for revolutionaries."

On May 24, authorities expelled 16 year old student Yasmani Oliva from the Art Teachers School in Santa Clara for producing an anti Castro poster. He was sent home and later summoned to a minor's reeducation center.

Artistic expression was less restricted. The Government encouraged the cultural community to attain the highest international standards and to sell its work overseas for hard currency.

b. Freedom of Peaceful Assembly and Association.—Although the Constitution grants limited rights of assembly and association, these rights are subject to the requirement that they may not be "exercised against the existence and objectives of the Socialist State." The law punishes any unauthorized assembly of more than three persons, including those for private religious services in private homes, by up to 3 months in prison and a fine. The authorities selectively enforced this prohibition and often used it as a legal pretext to harass and imprison human rights advocates.

On February 9, Doralis Velasquez Falcon, wife of jailed labor activist Hector Raul Valle Hernandez, was summoned to the police station after a group of Czech officials visited her to express solidarity with her husband's case. Officers of the State Security agency warned that action would be taken against her if she continued her pro civil rights activities.

The Government's policy of selectively authorizing the Catholic Church to hold outdoor processions at specific locations on important feast days continued during the year. On September 8, the Government permitted, for the seventh consecutive year, a procession in connection with Masses celebrating the feast day of Our Lady of Charity in Havana. A number of activists participated in the procession. The authorities permitted approximately 50 processions nationwide to mark the feast day of Our Lady of Charity but denied approximately 14 others. The Catholic Church decided to stop requesting permits for processions in areas where they historically were not permitted.

The authorities never have approved a public meeting by a human rights group and often detained activists to prevent them from attending meetings, demonstrations, or ceremonies (*see* Section 1.d.). There were unapproved meetings and demonstrations, which the Government frequently disrupted or attempted to prevent. The authorities sometimes used or incited violence against peaceful demonstrators.

On April 9, authorities in Regla informed Pedro Pablo Valdes that the ceremony his group was planning for April 11 to commemorate the 2003 execution of three youths by the Government would be considered a "terrorist act" and that participants would be punished accordingly. The PNR posted two uniformed officers at the home where the ceremony was to be held and forced the promoters to cancel the event.

Family members and supporters of political prisoners continued their silent marches after attending weekly Mass at Havana's Santa Rita Catholic Church. Authorities attempted to discourage members from participating by arranging prison

visits or phone calls with the prisoners on Sundays during hours that conflicted with the Masses and marches.

The Government organized marches on May Day and held a rally, "Tribuna Abierta," every Saturday in a different municipality in the country. The Government employed CDRs and officials in the workplace to compel mass participation in these events, despite the fact that they were covered by both radio and television.

The Government generally denied citizens the freedom of association. The Penal Code specifically outlaws illegal or unrecognized groups. The Minister of Justice, in consultation with the Ministry of Interior, decides whether to give organizations legal recognition. The authorities never have approved the existence of a human rights group; however, a number of professional associations operated as nongovernmental organizations (NGOs) without legal recognition, including the Association of Independent Teachers, the Association of Independent Lawyers (Agramonte), the Association of Independent Architects and Engineers, and several independent journalist organizations. The Constitution proscribes any political organization other than the CP (*see* Section 3).

Recognized churches (*see* Section 2.c.), the Roman Catholic humanitarian organization Caritas, the Masonic Lodge, small human rights groups, and a number of nascent fraternal or professional organizations were the only associations permitted to function outside the control or influence of the State, the CP, and their mass organizations. With the exception of recognized churches and the Masons, who have been established in the country for more than a century, the authorities continued to ignore those groups' applications for legal recognition, thereby subjecting members to potential charges of illegal association. All other legally recognized NGOs were affiliated at least nominally with, or controlled by, the Government.

c. Freedom of Religion.—The Constitution recognizes the right of citizens to profess and practice any religious belief within the framework of respect for the law; however, in law and in practice, the Government continued to restrict freedom of religion. In general, unregistered religious groups continued to experience various degrees of official interference, harassment, and repression. The Government's main interaction with religious denominations was through the CP's Office of Religious Affairs. The Ministry of Interior engaged in active efforts to control and monitor religious institutions, particularly through surveillance, infiltration, and harassment of religious professionals and practitioners. The Government's policy of permitting apolitical religious activity to take place in government approved sites remained unchanged; however, citizens worshiping in officially sanctioned churches often were subjected to surveillance by State Security forces, and the Government's efforts to maintain a strong degree of control over religion continued.

The Constitution provides for the separation of church and state. The Government has allowed religious adherents to join the CP since 1991. A 1992 constitutional amendment prohibits religious discrimination and removed references to "scientific materialism" (i.e., atheism) as the basis for the State. The Government does not favor any one particular religion or church; however, the Government appeared to be most tolerant of those churches that maintained close relations to the State through the Cuban Council of Churches (CCC). The CCC generally was supportive of government policies. Members of the armed forces did not attend religious services in uniform.

The Government requires churches and other religious groups to register with the provincial registry of associations within the Ministry of the Interior to obtain official recognition. In practice, the Government refused to recognize new denominations; however, the Government tolerated some religions, such as the Baha'i Faith and a small congregation of the Church of Jesus Christ of Latter day Saints. Unregistered religious groups were subject to official interference, harassment, and repression. The Government, with occasional exceptions, prohibited the construction of new churches, forcing many growing congregations to violate the law and meet in private homes.

In January, Orthodox Ecumenical Patriarch Bartholomew visited and presided over the consecration of a church for the small Greek Orthodox community in Havana. In November, a delegation of the Moscow Patriarchate of the Russian Orthodox Church visited the country to consecrate the first Russian Orthodox temple in the country. Government media cast these events as evidence of the Government's religious tolerance.

On September 23, members of the First Bethany Baptist church of Holguin ended a 74 day hunger strike and sit in. The Government granted permission to renovate the church, but before the work was finished, it decided the renovation was too opulent and threatened to take over the facility. The Government only allowed work to continue after the protests.

Government harassment of private houses of worship continued, with evangelical denominations reporting evictions from houses used for these purposes. The CCC claimed that most private houses of worship closed by the Government were unregistered and therefore illegal. In addition, CCC Pentecostal members complained about the preaching activities of foreign missionaries that led some of their members to establish new denominations without obtaining the required permits. Because of these complaints by the Pentecostals, the CCC formally requested overseas member church organizations to assist them in dissuading foreign missionaries from establishing Pentecostal churches.

In September 2003, the Conference of Catholic Bishops issued a document accusing the Government of imposing tighter restrictions on the Church and on society since the 1998 visit of Pope John Paul II, and calling on the Government to show clemency towards political prisoners.

Unlike in 2003, authorities in the town of Managua in Havana Province permitted a procession to mark the feast day of the patron saint of Managua.

The Government allowed 9 foreign priests and 19 religious workers to enter the country to replace other priests and nuns whose visas had expired. The applications of 60 priests and 130 other religious workers remained pending at year's end, as did a request from the Conference of Catholic Bishops for the Government to permit 15 Catholic orders to establish a presence in the country; the lack of approval limited the training of seminarians.

In the past several years, the Government relaxed restrictions on some religious denominations, including Seventh day Adventists and Jehovah's Witnesses. Jehovah's Witnesses, once considered "active religious enemies of the revolution," were allowed to proselytize door to door and generally were not subjected to overt government harassment, although there were sporadic reports of harassment by local CP and government officials.

Education is secular, and no religious educational institutions are allowed; however, the Catholic Church and Jewish synagogues were permitted to offer religious education classes to their members. There were no reports that parents were restricted from teaching religion to their children.

The Government continued to prevent any national or joint enterprise (except those with specific authorization) from selling computers, fax machines, photocopiers, or other equipment to any church at other than official and exorbitant retail prices. Religious literature and materials must be imported through a registered religious group and may be distributed only to officially recognized religious groups. In punishment cells, prisoners were denied access to reading materials, including Bibles (*see* Section 1.c.).

The CCC continued to broadcast a monthly 15 minute program on a national classical music radio station on the condition that the program not include material of a political character.

State Security officials visited some priests and pastors prior to significant religious events, ostensibly to warn them that dissidents were trying to "use the Church"; however, some critics claimed these visits were an effort to foster mistrust between the churches and human rights or pro democracy activists. In many churches, most noticeably at Santa Rita's, the Conference of Catholic Bishops estimated that the number of State Security agents attending Mass for the purpose of intimidating spouses of political prisoners increased.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Government severely restricted freedom of movement. The Government generally did not impose legal restrictions on domestic travel; however, it limited internal migration to Havana, and restricted persons found to be HIV positive to sanatoriums for treatment and therapy before conditionally releasing them into the community. For the past several years, State Security officials prohibited some human rights advocates and independent journalists from traveling outside their home provinces, and the Government also sentenced others to internal exile.

On July 13, authorities of the municipality of the Isle of Youth prevented independent journalist Carlos Serpa Maceira from traveling to Nueva Gerona to participate in the annual March 13 commemoration of those who drowned in the tugboat sunk by the Government in 1994. Serpa Maceira was advised he would be jailed if he attempted to travel to Nueva Gerona.

Decree 217 prohibits persons in other provinces from moving into Havana on the grounds that unchecked internal migration would exacerbate the city's problems regarding housing, public transport, water, and electrical supplies; visits to the city were permissible. Police frequently checked the identification of persons on the

streets, and anyone from another province living in Havana illegally could be fined 12 convertible pesos (300 pesos) and sent home. Fines were 40 convertible pesos (1,000 pesos) for those who resided illegally in the neighborhoods of Old Havana, Cerro, or 10 de Octubre. Human rights observers noted that while the decree affected migration countrywide, it targeted individuals and families predominantly of African descent from the more impoverished eastern provinces.

The Government imposed some restrictions on both emigration and temporary foreign travel. By year's end, the Government had refused exit permits to 836 people, but allowed the majority of persons who qualified for immigrant or refugee status in other countries to depart.

In June, authorities denied an exit permit to Julio Antonio Valdes Guevara, 1 of the 75 activists arrested in March 2003 and subsequently released on April 15. Valdes Guevara was reportedly extremely ill and required hemodialysis and a kidney transplant. His wife, 4 year old son, sister, and brother-in-law all were granted exit permits.

Some denials involved professionals who attempted to emigrate and whom the Government subsequently banned from working in their occupational fields. The Government refused permission to others because it considered their cases sensitive for political or state security reasons. Resolution 54 denies exit permits to medical professionals until they have performed 3 to 5 years of service in their profession after requesting permission to travel abroad. This regulation, normally applied to recent graduates, was not published officially and may apply to other professionals as well.

The Government routinely denied exit permits to young men approaching the age of military service (18 years) until they reached the age of 27, even when it authorized other family members to leave. However, in most of those cases approved for migration to the United States under the 1994 U.S. Cuba Migration Accords, the applicants eventually received exemption from obligatory service and were granted exit permits.

The Government has a policy of denying exit permission for several years to relatives of individuals who successfully migrated illegally (for example, merchant seamen who defected while overseas and sports figures who defected while on tours abroad).

The Government also used both internal and external exile as tools for controlling and eliminating internal opposition. The Penal Code permits the authorities to bar an individual from a certain area or to restrict an individual to a certain area for a period of 1 to 10 years. Under this provision, authorities could exile any person whose presence in a given location they deemed to be "socially dangerous."

The Government routinely invoked forced exile as a condition for political prisoner releases and also pressured activists to leave the country to escape future prosecution. Margarito Broche Espinosa's conditional release papers stated that he was released "for 1 year," indicating that he would be imprisoned after 365 days if he remained in the country. The conditional release papers given to Oscar Espinosa Chepe indicated that he was released "until he recovers his health," compelling him to leave the country before his health improved.

Migrants who travel to the United States must pay the Government a total of 600 convertible pesos per adult and 400 convertible pesos per child, plus airfare. These government fees for medical exam, often of dubious quality, passport, and exit visa which must be paid in dollars were equivalent to approximately 5 years of a professional person's total peso salary and represented a significant hardship, particularly for political refugees. Many individuals applying for political refugee status were fired from their jobs for being "politically unreliable" and had no income. At year's end, however, there were no refugees unable to leave the country because of inability to pay exit fees.

The Penal Code provides for imprisonment of up to 3 years or a fine of 12 to 40 convertible pesos (300 to 1,000 pesos) for unauthorized departures by boat or raft. The office of the U.N. High Commissioner for Refugees (UNHCR) stated that it regarded any sentence of more than 1 year for simple illegal exit as harsh and excessive. Under the terms of the 1994 U.S. Cuba Migration Accord, the Government agreed not to prosecute or retaliate against migrants returned from international or U.S. waters, or from the U.S. Naval Base at Guantanamo, after attempting to emigrate illegally if they had not committed a separate criminal offense.

In 1994, the Government eased restrictions on visits by, and repatriations of, Cuban emigrants. Citizens who established residency abroad and who were in possession of government issued permits to reside abroad may travel to the country without visas, although citizens who departed after December 31, 1970, must obtain a costly passport to reenter the country. Persons who are at least 18 years of age are eligible to travel abroad and may remain outside the country for up to 11

months. Emigrants who were considered not to have engaged in so called hostile actions against the Government and who were not subject to criminal proceedings in their countries of residence may apply at consulates for renewable, 2 year multiple entry travel authorizations.

The Constitution provides for the granting of asylum to individuals persecuted for their ideals or actions involving one of the following: "For democratic rights against imperialism, fascism, colonialism, and neocolonialism; against discrimination and racism; for national liberation; for the rights of workers, peasants, and students; for their progressive political, scientific, artistic, and literary activities; and for socialism and peace." Although the Government has no formal mechanism to process asylum for foreign nationals, in practice, it provided protection against refoulement, the return of persons to a country where they feared persecution. The Government cooperated with the UNHCR, and provided temporary protection to a small number of persons. There was no information available on its use during the year.

The Government had an established system for providing assistance to refugees. During the year, 15 persons applied for refugee status, of whom 10 were approved; according to the UNHCR, there were 795 refugees in the country.

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

Citizens do not have the right to change their government or to advocate change, and the Government retaliated systematically against those who sought peaceful political change. The Constitution proscribed any political organization other than the CP. In 2002, the Government amended the Constitution to restrict further citizens' rights to change the Government, making socialism the "irrevocable" basis of the Constitution. In March 2003, President Castro declared his intent to remain in power for life. While the Constitution provides for direct election of provincial, municipal, and ANPP members, the candidates for provincial and national office must be approved in advance by mass organizations controlled by the Government. In practice, a small group of leaders, under the direction of President Castro, selected the members of the highest policy making bodies of the CP, the Politburo and the Central Committee.

The authorities tightly controlled the selection of candidates and all elections for government and CP positions. The candidacy committees were composed of members of government controlled mass organizations such as the Confederation of Cuban Workers (CTC) and the CDRs and were responsible for selecting candidates, whose names then were sent to municipal assemblies that selected a single candidate for each regional seat in the ANPP. An opposition or independent candidate never has been permitted to run for national office.

In January 2003, the Government held national elections in which 609 candidates were approved to compete for the 609 seats in the National Assembly. The CP was the only political party allowed to participate in the elections. The CP approved candidates for all offices. A small minority of candidates did not belong formally to the CP but were chosen through the same government-controlled selection process. According to the official media, 97.6 percent of registered voters participated in the elections, and the candidates were voted in by 91 percent of the electorate. No candidates with views independent from, or in opposition to, the Government were allowed to run, and no views contrary to the Government or the CP were expressed in the government controlled national media. The Government saturated the media and used government ministries, CP entities, and mass organizations to urge voters to cast a "unified vote" where marking one box automatically selected all candidates on the ballot form.

Deputies in the National Assembly, delegates in the provincial assemblies, and members of the Council of State are elected during general elections every 5 years. Municipal elections are held every 2 years to elect 14,686 local representatives to the municipal assemblies, the lowest level of the Government's structure. In 2002, the Government held elections for local representatives to the municipal assemblies. Government newspapers reported that 95 percent of voters participated in the election, compared with 98 percent in 2000. Slightly less than 50 percent of those elected were incumbents and 22 percent were women; 6 percent of all candidates were between the ages of 16 and 30. The reports also claimed that nationwide the number of blank ballots remained steady at 2.8 percent, and the number of annulled ballots decreased from 3 percent to 2.4 percent. In 2002, 98.99 percent of the electorate allegedly signed a petition to retain the socialist nature of the regime indefinitely.

Although not a formal requirement, in practice, CP membership was a prerequisite for high level official positions and professional advancement.

The Government rejected any change to the political system judged incompatible with the revolution and ignored or actively suppressed calls for democratic reform.

Since 2002, the Christian Liberation Movement, led by Oswaldo Paya, introduced 2 petitions (known as the Varela Project) with over 25,000 signatures to the National Assembly; the petitions proposed a 5 point national referendum on political and economic reforms. The petitions were based on Article 88 of the 1976 Constitution, which permits citizens to propose legislation if such proposals are backed by at least 10,000 citizens. The Varela Project called for an end to limits on freedom of association, an amnesty for nonviolent political prisoners, reduced barriers to private enterprise, electoral reforms, and free elections within a year of the referendum. In response, the National Assembly unanimously passed an amendment making socialism the irrevocable basis of the Constitution; however, the amendment did not rescind the right of citizens to propose legislation. On May 25, Paya issued a document called the "National Dialogue" that called for the development of a transition program and introduced proposals for reconciliation and the establishment of democracy.

Varela organizers continued to collect signatures in support of their proposal; however, activists reported increased harassment by State Security agents. Varela activists were arrested and detained, signatures were confiscated, activists and signers were fined and threatened, and signers were forced to rescind signatures. State Security impersonated canvassing volunteers and increasingly infiltrated the ranks of activists. All 21 Varela activists arrested in 2003 remained in prison at year's end.

On August 3, State Security agents threatened and detained Varela activists Flora Maria Echevarria and Erica Isabel Arriera Reynoso of Quivican. The agents forced the women from a public bus, searched them, and confiscated several signed Varela petitions. They were detained for several hours and released.

On February 4, pro democracy activist Vladimiro Roca of the movement "All United" published a document that examined the Constitution and suggested 36 reforms. The document was distributed to the public for comment and will be presented to the ANPP in the future for its consideration.

Independent and official press reported incidences of government corruption and bribery, and several officials were removed from their positions for participating in corruption. In February, authorities removed Minister of Tourism Ibrahim Ferradaz and two of three deputy ministers in part because they were unable to control corruption.

Public access to government information is a legal right; however, in practice, requests for information were routinely rejected, often on the grounds that access was not a right. Law 88 provides for fines or prison terms for those individuals in positions of power who give information deemed sensitive to foreign companies or persons.

Government leadership positions continued to be dominated by men. There were no legal impediments to women voting, holding political office, or rising to political leadership; however, there were very few women or minorities in policymaking positions in the Government or the CP. There were 2 women in the 24 member Politburo and 20 in the 150 member Central Committee. Women held 219 seats in the 609 seat National Assembly. Although blacks and persons of partial African descent made up more than half the population, they held only six seats in the Politburo. Following the selection of the new ANPP in January 2003, government run Granma reported that the National Assembly was 67 percent white, 22 percent black, and 11 percent mixed race.

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

The Government did not recognize any domestic human rights groups or permit them to function legally. The Government subjected domestic human rights advocates to intense intimidation, harassment, and repression. In violation of its own statutes, the Government refused to consider applications for legal recognition submitted by human rights monitoring groups (*see* Section 2.b.).

Dissidents generally believed that most human rights organizations were infiltrated by State Security officials and subjected to constant surveillance. Dissident leaders also were concerned that some individuals joined their groups to qualify for refugee status to leave the country. Public identification of suspected state infiltrators was a crime punishable by 8 to 15 years' imprisonment.

In April 2003, authorities confirmed that 12 purported dissidents were in fact agents of the Ministry of the Interior. The 12 infiltrators testified against several of the 75 human rights activists and independent journalists subjected to summary trials.

The Government steadfastly rejected international human rights monitoring. Since 1992, the Government has refused to recognize the mandate of the UNCHR

on Cuba and, despite being a UNCHR member, refused to acknowledge requests by Christine Chanet, the Personal Representative of the Commissioner on Human Rights, to visit the country. On April 15, the UNCHR passed a resolution that expressed concern about the human rights situation in the country and repeated its earlier call on the Government to receive the visit of Chanet. In January, she issued a report on the country's human rights situation, specifically addressing issues impeding the growth of civil society, such as arbitrary detentions, prison conditions, and summary trials.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution forbids discrimination based on race, sex, or national origin; however, evidence suggested that racial discrimination occurred frequently. The country is a multiracial society with a black and mixed race majority.

Women.—Violent crime rarely was reported in the press, and there was no publicly available data regarding the incidence of domestic violence and rape; however, human rights advocates reported that violence against women was a problem. The law establishes strict penalties for rape, and the Government enforced the law; however, according to human rights advocates, the police did not act on cases of domestic violence.

Prostitution is legal for persons over 17 years of age; however, pandering and economic activities facilitating prostitution, including room rentals, are illegal. Press reports indicated that tourists visited specifically to patronize inexpensive prostitutes. Some street police officers were suspected of providing protection to the prostitutes (known as "jineteras"). The Government periodically cracked down on prostitution, most recently in 2003, but jineteras remained numerous and publicly visible in Havana and other major cities. Most observers believed that the Government took these measures to combat the perception that the Government promoted sex tourism. The Government maintained centers to take prostitutes off the streets and reeducate them. There was no information available regarding whether or not the Government dismantled these centers, as recommended by a 2003 U.N. Special Rapporteur's report.

The Family Code states that women and men have equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home, and pursuing a career. Women were subject to the same restrictions on property ownership as men. The law provides up to 1 year of maternity leave and grants working mothers preferential access to goods and services. Approximately 40 percent of all women worked, and they were well represented in many professions. According to the most recent (2000) public figures of the Cuban Women's Federation (FMC), a mass organization affiliated with the CP, women held 33 percent of managerial positions. The FMC also asserted that 11,200 women received land parcels to cultivate, more than 561,000 women had begun working as agricultural workers, and that women devoted 34 hours a week to domestic work, approximately the same number of hours they spent working outside the home.

Children.—The Constitution provides for government protection of family, maternity, and matrimony. It also states that all children have the same rights under the law and notes the duties of parents to ensure their protection. State organizations and schools were charged with the comprehensive formation of children and youth. Public education was free through the university level; however, citizens could be barred for a lack of "revolutionary beliefs." The law requires school attendance until the ninth grade, which was the highest level achieved by most children. According to the government press, 100 percent of school age children attended school. Education was suffused with Marxist ideology and anti-imperialist and anti-capitalist propaganda, beginning in primary school.

The educational system often forced families to live apart. Residents of Havana who wanted their children to follow a university track education or "pre university" were required to send them to boarding schools outside the capital. Parents of children in rural areas had few schooling options and were often forced to send their children to rural boarding schools from as early as age 12. Religious groups and NGOs complained that sexual relations among students and even with teachers at boarding schools were tolerated and that children were required to participate in several hours of manual labor per day (*see* Section 6.c.).

Children up to the age of seven received additional food rations, including meat and milk, through the ration card system.

The national health care system covered all citizens; however, facilities were deteriorated and basic medicines were often impossible to find.

Although seldom covered in the official media, there were occasional reports of child abuse; however, there was no societal pattern of child abuse. Police officers

who found children loitering in the streets or begging from tourists frequently intervened and tried to find the parents. If a child was found bothering tourists more than once, police frequently fined the child's parents. During their summer vacation, students were pressured to enlist for up to a week of "volunteer labor" at one of the various work camps in rural areas.

Underage prostitution was a problem, with young girls engaging in prostitution to help support themselves and their families. Children could marry with the consent of their parents at the age of 14; however, Article 310 of the Penal Code provides for 2 to 5 years' imprisonment for anyone who "induces minors under 16 years of age to practice homosexuality or prostitution." The police generally enforced laws on underage prostitution; however, the phenomenon continued as more cabarets and discos opened catering to the sexual tourism trade. Workers at some tourist facilities appeared to profit from underage prostitution. The Government did not publicly acknowledge the prevalence of underage prostitution; however, the Government prosecuted persons involved in child prostitution and child pornography and assisted other countries in international investigations of child sexual abuse.

Trafficking in Persons.—The Penal Code prohibits trafficking in persons, and there were no reports that persons were trafficked to or from the country. There were incidents of trafficking within the country for purposes of sexual exploitation and forced labor, which were not reported in the official media.

The revised Code makes it illegal to promote or organize the entrance of persons into, or the exit of persons from, the country for the purpose of prostitution; violators were subject to 20 to 30 years' imprisonment.

The Ministry of Justice, the Ministry of Education, the PNR, and local governments are tasked with different facets of combating trafficking in persons and the problem of underage prostitution, and no entity had complete autonomy dealing with these issues. The police investigated and arrested traffickers, the Ministry of Justice prosecuted and incarcerated traffickers, and the Ministry of Education rehabilitated prostitutes, including underage prostitutes. Child victims generally were treated as criminals and were incarcerated for breaking laws on prostitution. In June, the Government reported that between 2000–04, there were 881 trials for those accused of procuring prostitutes, with 1,377 individuals convicted and sentenced to prison. There was no data published on prosecutions of trafficking of underage children in prostitution.

There were reports of trafficking within the country for purposes of sexual exploitation and forced labor. Victims of trafficking for sexual exploitation generally were teenage girls age 14 to 17 who are abused in prostitution. The country was also a destination for sex tourists, including foreigners searching for underage prostitutes. Victims of trafficking for forced labor included children coerced to work in commercial agriculture.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, there are no laws that mandate accessibility to buildings for persons with disabilities. In practice, buildings and transportation rarely were accessible to persons with disabilities.

The Special Education Division of the Ministry of Education was responsible for the education and training of children with disabilities. The Ministry of Labor and Social Security was in charge of the Job Program for the Handicapped.

National/Racial/Ethnic Minorities.—Many persons of African descent have benefited from access to basic education and medical care since the 1959 revolution, and much of the police force and army enlisted personnel is black. Nevertheless, racial discrimination often occurred and was acknowledged publicly by high governmental officials. At the 2001 World Conference on Racism in South Africa, President Castro acknowledged that the revolution had not eradicated racism. There were numerous reports of disproportionate police harassment of black youths. Evictions, exacerbated by Decree 217, primarily targeted individuals and families who migrated to Havana from the eastern provinces, traditionally areas of black or mixed race populations (*see* Section 2.d.).

Other Societal Abuses and Discrimination.—In the early years of the regime, government rhetoric and official policy was anti homosexual, and homosexuals were forcibly sent to "reeducation camps." Although such policies no longer persist, societal discrimination continued.

The Government restricted persons found to be HIV positive to sanatoriums for treatment and therapy before conditionally releasing them into the community.

Section 6. Worker Rights

a. The Right of Association.—The Constitution gives priority to state or collective needs over individual choices regarding free association or provision of employment. The demands of the economy and society take precedence over individual workers' preferences. Established official labor unions have a mobilization function and do not act as trade unions, promote worker rights, or protect the right to strike. Such organizations were under the control of the State and the CP, which also managed the enterprises for which the laborers worked. Because all legal unions were government entities, anti union discrimination by definition did not exist.

The CP selects the leaders of the sole legal labor confederation, the CTC, whose principal responsibility is to ensure that government production goals are met. Despite its assertions in international fora to the contrary, the Government explicitly prohibited independent unions, and none were recognized. There has been no change in conditions since the 1992 International Labor Organization (ILO) finding that the Government violated ILO norms on freedom of association and the right to organize. Those who attempted to engage in unofficial union activities faced government harassment. In June 2003, the International Labor Conference concluded that government law and practice were in violation of ILO Convention 87 on Freedom of Association. The Applications Committee of the International Labor Conference also called upon the Government to release trade unionists arrested in March 2003 and urged the Government to accept an ILO mission to verify labor conditions and to work with the Government to ensure full compliance with Convention 87. The Government rejected the Application Committee's conclusions and any possibility of an ILO mission.

In June, the ILO's Committee on Freedom of Association (CFA) reaffirmed its November 2003 criticisms of the authorities' recognition of only a single official union and prohibition of independent trade unions. The CFA also cited the absence of collective bargaining and of the right to strike, as well as the arrest and harassment of union members, government infiltration of independent unions, and illegal house searches. The CFA expressed particular concern regarding the arrests and lengthy imprisonment of union organizers in March and April 2003 and recommended that an ILO Direct Contacts Mission be allowed to enter the country to investigate the situation.

Workers often lost their jobs because of their political beliefs, including their refusal to join the official union. Several small independent labor organizations were created, although they functioned without legal recognition. These organizations also were subject to infiltration by Government agents and were unable to represent workers effectively or work on their behalf.

At year's end, seven of the nine labor leaders arrested in March 2003 remained in prison, including Pedro Pablo Alvarez Ramos. During the year, authorities released Carmelo Diaz and Roberto de Miranda.

On March 30, authorities fired agricultural engineer Alexis Ramirez Rodriguez from his position in the Granma Biochemical Factory of Bayamo for not contributing to the union's "militia" fund or participating in revolutionary union events. Ramirez was a delegate of the National Independent Workers' Confederation of Cuba.

On September 23, two municipal housing inspectors from Villa Clara, Sandra Cedeno Leon and Odalys Bacallao Diaz, reported being fired by their supervisor for having signed the Varela Project. Their labor records did not reflect the reason for dismissal.

On October 15, secret police beat trade unionist Lazaro Gonazlez Adan in his home in Camaguey and subsequently arrested him on charges of "disrespect" for state authority.

b. The Right to Organize and Bargain Collectively.—Although the Cuban labor code provides for collective bargaining, it does not exist in practice. The State Committee for Work and Social Security (CETSS) sets wages and salaries for the state sector, which is virtually the only employer in the country. The law does not provide for strikes, and none were known to have occurred during the year. The country's three export processing zones located at Beroa, Wajay, and Mariel were in the process of being dismantled; however, there were no special laws or exemptions from regular labor laws in these zones.

The Foreign Investment Law denies all workers, except those with special government permission, the right to contract directly with foreign companies investing in the country. Although a few firms managed to negotiate exceptions, the Government required foreign investors and diplomatic missions to contract workers through state employment agencies, which were paid in foreign currency, but which, in turn, paid workers very low wages in pesos. Typically workers received 5 percent of the salary paid by the companies to the State. Workers subcontracted by state employment

agencies must meet certain political qualifications. According to former Minister of Basic Industry Marcos Portal, the state employment agencies consulted with the CP, the CTC, and the Union of Communist Youth to ensure that the workers chosen "deserved" to work in a joint enterprise.

On January 9, authorities summoned Antonio Alonso to the Ministry of Interior in the Municipality of Songo La Maya and fined him for his union activities. Alonso was told by an official that he had been tasked with "getting rid" of all the independent unions by prohibiting all meetings, seminars, and training courses offered by these groups.

c. Prohibition of Forced or Compulsory Labor.—Neither the Constitution nor the Labor Code prohibits forced or compulsory labor by adults. The Constitution prohibits forced or compulsory labor by children; however, there were reports that such practices occurred (*see* Section 5). The Government maintained correctional centers where it sent persons for crimes such as "dangerousness." Prisoners held in such centers were forced to work on farms or at sites doing construction, agricultural, or metal work. The authorities often imprisoned uncooperative internees.

The Government employed special groups of workers, formed into "microbrigades," who were reassigned temporarily from their usual jobs to work on special building projects. These microbrigades were increasingly important in the Government's efforts to complete tourist and other priority projects. Workers who refused to volunteer for these jobs often risked discrimination or job loss. Microbrigade workers reportedly received priority consideration for housing assignments. The military assigned some conscripts to the Youth Labor Army, where they served a 2 year military service requirement working on farms that supplied both the armed forces and the civilian population.

On April 16, Alberto Martinez Femmdy, a prisoner in the Corojo correctional facility, denounced in a letter smuggled out of prison that he was forced to participate in manual labor from 4:30 a.m. to 8 p.m. 7 days a week.

On June 15, economist Felix Reyes Gutierrez was demoted as punishment for blowing the whistle on corruption and theft at the Ramiro Lavandreo Cruz cigarette factory in Villa Clara, where he worked. Reyes was subsequently reassigned to do agricultural labor.

Forced and compulsory labor by children occurred in practice.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Government prohibits forced and compulsory labor by children; however, the Government required children to work in various situations. Students at rural boarding schools were expected to participate in several hours of manual labor per day. Secondary school students were expected to devote up to 15 days of their summer vacation completing a variety of tasks ranging from farm labor to urban cleanup projects and were paid a small wage for this labor. Students in post secondary institutions (technical schools, university preparatory schools, and agricultural institutes) were expected to devote 30 to 45 days per year to primarily agricultural work. According to school rules, refusal to do agricultural work could result in expulsion from the institution. The country has not ratified ILO Convention 182, but the Government adhered to Convention 182 standards concerning the elimination of the worst forms of child labor.

The legal minimum working age is 17. However, the Labor Code permits the employment of 15 and 16 year old children to obtain training or to fill labor shortages. The Labor Code does not permit teenagers to work more than 7 hours per day or 40 hours per week or on holidays. Children age 13 to 18 cannot work in the following situations: As longshoremen (load/unload excessive weight); in mines; underground; near noxious, reactive or toxic substances; in high places; or at night. The Labor Code permits persons age 18 or over to work underground or with noxious substances.

e. Acceptable Conditions of Work.—CETSS sets the minimum wage, which varies by occupation. For example, the minimum monthly wage for a maid was 6.35 convertible pesos (165 pesos); for a bilingual office clerk, 7.30 convertible pesos (190 pesos); and for a gardener 8.30 convertible pesos (216 pesos). The Government supplemented the minimum wage with free education, subsidized medical care (daily pay is reduced by 40 percent after the third day of being admitted to a hospital), housing, and some food (this subsidized food is enough for approximately 1 week per month). The Government rationed most basic necessities such as food, medicine, clothing, and cooking gas, which were expensive and often scarce. However, even with these subsidies, the minimum wage did not provide a decent standard of living for a worker and family.

The Government required foreign companies in joint ventures with state entities to hire and pay workers through the State (*see* Section 6.b.). HRW noted that the

required reliance on state controlled employment agencies effectively left workers without any capacity directly to negotiate wages, benefits, the basis of promotions, or the length of the workers' trial period at the job with the employer. Foreign companies paid the Government as much as 500 to 600 convertible pesos per worker per month; however, because the Government paid salaries in pesos instead of convertible pesos, workers only received 4 percent of the money foreign companies paid to the Government for their services.

The standard workweek was 44 hours, with shorter workweeks in hazardous occupations, such as mining. The Government reduced the workday in some government offices and state enterprises to save energy. The labor code provides workers with a weekly 24-hour rest period.

Laws providing for workplace environmental and safety controls were inadequate, and the Government lacked effective enforcement mechanisms. Independent press and international organizations reported that industrial accidents were frequent, but the Government suppressed such reports. The Labor Code establishes that a worker who considers his life in danger because of hazardous conditions has the right to refuse to work in a position or not to engage in specific activities until such risks are eliminated. According to the Labor Code, the worker remains obligated to work temporarily in whatever other position may be assigned him at a salary provided for under the law.

DOMINICA

Dominica is a multiparty, parliamentary democracy governed by a prime minister, a cabinet, and a unicameral legislative assembly. A president, nominated by the Prime Minister in consultation with the leader of the opposition party, and elected for a 5-year term by the Parliament, was head of state with largely ceremonial powers. Prime Minister Pierre Charles' Dominica Labour Party (DLP) prevailed in generally free and fair elections in 2000. Following the sudden death of Prime Minister Charles on January 6, Members of Parliament appointed Roosevelt Skerrit as Prime Minister on January 8. The judiciary is independent.

The Office of the Prime Minister oversaw the Dominica Police, the country's only security force. The civilian authorities maintained effective control of the security forces. Some members of the security force committed human rights abuses.

The country has a primarily agrarian, market-based economy and a population of 70,400. The economy continued to depend heavily on earnings from the declining banana industry. The Government's efforts to market the island as an ecotourism destination produced mixed results, with increases in arrivals by cruise ship passengers but a drop in over-night stays. There was a high external debt and an unemployment rate of approximately 23 percent. Gross domestic product was estimated to increase by 1.1 percent and inflation was estimated to be 2.4 percent.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Prison conditions were poor; violence against women and children was a problem; and there were instances of discrimination against indigenous Carib Indians and societal discrimination against female Caribs in mixed marriages.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, but there were some complaints of use of excessive force by the police.

During the year, 13 cases of misconduct were brought against the police, of which 7 were for excessive force. By year's end, one case of excessive force was before a disciplinary tribunal, five were being investigated, and one was dropped for lack of evidence.

Of the 29 cases brought against the police in 2003, 19 were for excessive force. Ten cases of excessive force were brought before a disciplinary tribunal and 9 were dismissed.

Prison conditions were poor. The prison buildings were in disrepair, conditions remained unsanitary, and overcrowding was a serious problem. The State Prison held 290 prisoners in a facility designed for approximately 200.

Female prisoners were held separately from male prisoners, and juveniles were segregated from adult inmates. Pretrial detainees were held with convicted prisoners, due to overcrowding and a lack of sufficient holding cells.

The Government permitted prison visits by independent human rights observers, although no such visits were known to have occurred during the year.

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

The 408-officer police effectively carried out its responsibilities for public order. The police have a formal complaint procedure to handle allegations of excessive force or abuse by police officers. During the year, the police force received 13 complaints of abuse, of which 2 were referred to the Attorney General and 11 were handled internally.

The Constitution requires that the authorities inform persons of the reasons for arrest within 24 hours after arrest and bring the detainee to court within 72 hours. This requirement generally was honored in practice; however, if the authorities are unable to bring a detainee to court within the requisite period, the detainee could be released and rearrested later. There is a functioning system of bail. Criminal detainees were provided prompt access to counsel and family members.

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

The judicial system is composed of a high court judge, 5 magistrates, and 10 magistrate courts located in police stations around the country. Appeals can be made to the Eastern Caribbean Supreme Court and to the Privy Council in the United Kingdom.

The law provides for public trial before an independent, impartial court. Criminal defendants are presumed innocent until proven guilty, are allowed legal counsel, and have the right to appeal. Courts provided free legal counsel to the indigent only in capital cases.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The Government did not restrict access to the Internet.

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

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

Although churches are not required to register, they must do so to own property, and ministers of registered churches may have an easier time obtaining long-term work visas. The Church of Jesus Christ of Latter-day Saints reported difficulties receiving official government recognition. The Attorney General reportedly refused to register the church after receiving an unfavorable report on the matter from the Dominica Council of Churches. Despite evidence showing that the church was registered in other countries in the region, the issue was not resolved at year's end.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

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

The Government has not formulated a policy regarding refugees or asylum. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Elections must be held at least every 5 years, although the Prime Minister can call elections at any time. The unicameral House of Assembly is composed of 21 parliamentary representatives and 9 senators. The representatives are elected by popular vote. The President appoints the senators; five senators are chosen with the advice of the Prime Minister and four with the advice of the opposition leader.

In January 2000, the DLP won 10 seats in generally free and fair elections, defeating the United Workers' Party. DLP leader Roosevelt P. "Rosie" Douglas forged a majority coalition and served as Prime Minister until his death in October 2000. Pierre Charles subsequently was appointed Prime Minister and served until his death on January 6. On January 8, Parliament appointed Roosevelt Skerrit as the new Prime Minister. New elections should be held by July 2005.

Corruption was a moderate problem, although the country had not formulated an anti-corruption plan to address the problem.

The law does not provide for public access to government information, and the Government did not provide such access in practice.

There were 6 women in the 30-seat legislature: 2 elected parliamentary representatives and 4 senators appointed by the President. There were no women in the cabinet.

The Parliamentary Representative for Indigenous People was a Carib Indian; he served concurrently as the Prime Minister's Parliamentary Secretary with responsibility for Carib affairs.

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

There were no government restrictions on the formation of local human rights organizations, although no such groups existed. Several advocacy groups, such as the Association of Disabled People, the Dominican National Council of Women, and a women's and children's self-help organization, operated freely and without government interference. There were no requests for investigations of human rights abuses from international or regional human rights groups.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution includes provisions against racial, sexual, and religious discrimination, which the authorities generally respected in practice.

Women.—Domestic violence cases were common. There are no specific spousal abuse laws; however, women could bring charges against husbands for battery, and the police and the courts prosecuted cases of rape and sexual assault. Rape cases were handled solely by female police officers. The Department of Labor established a crisis response mechanism to assist women who were victims of domestic violence. The Welfare Department of the Ministry of Community Development assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reported all cases of abuse to the police.

The Protection Against Domestic Violence Act allows abused persons to appear before a magistrate without an attorney and request a protective order. The court also may order the alleged perpetrator to be removed from the home in order to allow the victims, usually women and children, to remain in the home while the matter is investigated. Police officers continued to receive training in dealing with domestic abuse cases. The Dominica National Council of Women, a nongovernmental organization, taught preventive education about domestic violence and maintained a shelter where counseling and mediation services were available daily and provided to approximately 150 persons. Due to a shortage of funding, the organization only could permit persons to stay at the shelter for several days at a time; however, if needed, further housing was provided in private homes for up to 3 weeks. The Catholic Church continued to be active in educating the public about domestic violence.

The law does not prohibit sexual harassment, and it remained a problem.

While there was little open discrimination against women, property ownership continued to be deeded to heads of households, who were usually males. When the male head of household dies without a will, the wife may not inherit or sell the property, although she may live in it and pass it to her children. The law establishes fixed pay rates for specific civil service jobs, regardless of gender. The Labor Depart-

ment reported that many rural women found it difficult to meet basic needs, which partly resulted from continued declines in the banana export industry.

Children.—The Government was committed to children's rights and welfare.

Primary education is compulsory, free, and universal through the age of 16. Approximately 90 percent of school-age children attended school.

Primary health care was available throughout the island, and boys and girls had equal access.

Chile abuse continued to be a problem. During the year, the Welfare Department received reports of 114 cases of child abuse, including child sexual abuse and incest, compared with more than 200 in 2003. Enforcement of children's rights laws continued to be hampered by lack of staffing.

Although the maximum sentence for sexual molestation (rape, incest) is 25 years' imprisonment, the normal sentence given was 5 to 7 years except in the case of murder. The age of consent for sexual relations is 16 years.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country. Persons convicted of trafficking are subject to a fine of $37,500 (EC$100,000) and/or up to 7 years in prison.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, there is no legal requirement mandating access to buildings for persons with disabilities. Labor laws permit authorization of employment to persons with disabilities for less than the minimum wage, to increase employment opportunities for such persons (*see* Section 6.e.).

Indigenous People.—There was a significant Carib Indian population, estimated at 3,500 persons, most of whom lived on a 3,782-acre reservation. Despite having a representative in the Government, the Caribs believed that the Government could do more to protect their civil and political rights. Approximately 65 percent of the Carib population was between the ages of 18 and 35. There was a three-person police station on the reservation, generally staffed by Carib Indians. School, water, and health facilities on the reservation were rudimentary but similar to those available to other rural citizens; there were two primary schools and no secondary school on the reservation. Unemployment on the reservation generally was higher than in rest of the country, and average income was below the national average. The government-financed Carib Model Village to showcase Carib culture was still not formally open due to unresolved construction issues; however the buildings were complete and open to the public.

The Carib Act states that any child of a Carib Indian is also Carib. Non-Caribs may become Carib Indians if they are invited to live on the reservation and continuously do so for 12 years. Carib Indians over the age of 18 who reside there are eligible to vote for the Chief and 6 members of the Council of Advisors (they also are eligible to vote in national elections). Separate elections for council members and the Chief are held every 5 years. According to the Carib Act, the Council must meet once a month, determine the Chief's itinerary, and publish council meeting agendas in the government Gazette.

Reservation building permits may be obtained from the Carib Council and only were available to Carib Indians. Although the law permits Carib men and women married to non-Caribs to continue living on the reservation, in practice, Carib women married to non-Caribs had to move off the reservation. An estimated 25 percent of the Carib Indian population was believed to be in mixed marriages or relationships.

The law establishing the Carib reservation does not delineate clearly the reservation boundaries, and, despite government efforts to address this issue, Caribs continued to face increasing encroachment on their territory by farmers, particularly on the southern side of the reservation. Carib Indians also continued to report difficulties obtaining bank financing, particularly since reservation land was communal and therefore unavailable for use as collateral for loans.

Section 6. Worker Rights

a. The Right of Association.—Workers exercised the legal right to organize and choose their representatives. Unions represented approximately one-third of the total work force; approximately half of government workers were unionized.

The law provides that employers must reinstate workers fired for union activities; however, unions were concerned that this law was not being honored. The National Workers Union and the Waterfront and Allied Workers Union pursued separate cases on behalf of shop stewards who, the unions alleged, were dismissed for union activities in 2003. These two cases remained unresolved at year's end.

b. The Right to Organize and Bargain Collectively.—Unions have legally defined rights to organize workers and to bargain with employers. Workers exercised this right, particularly in the nonagricultural sectors of the economy, including in government service, and there also is recourse to mediation and arbitration by the Government. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice. The banana, coconut, and citrus fruit industries as well as port services are deemed essential services, which effectively prohibits workers in these sectors from going on strike. The International Labor Organization (ILO) considered this definition overly broad and repeatedly urged the Government to redefine essential services as those whose interruption would endanger the life, personal safety, or health of the whole or part of the population, or in the case of an acute national crisis. The ILO noted that existing legislation made it possible to stop a strike by compulsory arbitration and empowered the Minister to refer disputes to compulsory arbitration if in his or her opinion it concerns serious issues. The Industrial Relations Advisory Board, which is composed of union members, government representatives, and private businessmen, advised the Minister of Labor to amend this legislation and remove the coconut and citrus industries from the definition of essential services.

In October, a court found in favor of the Government in the case brought forward by the Public Service Union (PSU) concerning the legality of government cost-cutting measures. The PSU appealed the decision to the Privy Council in London, and a decision was pending at year's end.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred. The ILO asked the Government to repeal the National Service Act, on the grounds that it is conducive to forced labor for economic development; however, the Government took no action on the request.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although two acts prohibit employment of children, one act defines a "child" as under age 12 and the other under age 14. The Government defined 15 years as the minimum age for employment and enforced this standard in principle.

e. Acceptable Conditions of Work.—The law sets minimum wages for various categories of workers, but these were last revised in 1989. The minimum wage rate for some categories of workers (e.g., household employees) was as low as $0.37 (EC$1.00) per hour if meals were included. However, minimum wages for most workers ranged from $0.74 (EC$2.00) per hour for tourist industry workers to $1.11 (EC$3.00) per hour for occupations such as shop clerks. Minimum wages were not sufficient to provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earned more than the legislated minimum wage for their category. By year's end, the Government still had not acted on the 1998 recommendations of the Minimum Wage Advisory Board to increase wage levels.

Labor laws provide that the Labor Commissioner may authorize the employment of a person with disabilities at a wage lower than the minimum rate in order to enable that person to be employed gainfully.

The standard legal workweek is 40 hours in 5 days. The law provides overtime for work above the standard workweek; however, excessive overtime is not prohibited.

The Employment Safety Act provides occupational health and safety regulations that are consistent with international standards. Inspectors from the Environmental Health Department of the Ministry of Health conduct health and safety inspections. The rarely used enforcement mechanism consists of inspections by the Department of Labor, which prescribe specific compliance measures, impose fines, and prosecute offenders. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment.

DOMINICAN REPUBLIC

The Dominican Republic is a representative constitutional democracy with an executive branch headed by an elected president, a bicameral legislature, and a separate judiciary. In August, President Leonel Fernandez of the Dominican Liberation Party (PLD) retook office after a generally free and fair presidential election, replacing President Hipolito Mejia of the Dominican Revolutionary Party (PRD). The PRD

continued to control the Senate, with 29 of 32 seats, and held 72 out of 150 seats in the Chamber of Deputies; the remaining seats in the Chamber of Deputies were divided between the PLD (42 seats) and the Social Christian Reform Party (PRSC) (36 seats). The Constitution provides for an independent judiciary; however, internal corruption and interference from outside authorities remained a problem.

The National Police, the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), the Airport Security Authority (CESA), Port Security Authority (CESEP), and the armed forces (army, air force, and navy) form the security forces. The National Police maintained internal security in conjunction with the military. The military's domestic responsibilities include maintaining public order and protecting persons and property. The police are under the Secretary of the Interior and Police; the military, CESA, and CESEP are under the Secretary of the Armed Forces; and the DNI and the DNCD, which have personnel both from the police and from the military, report directly to the President. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed a number of human rights abuses.

The country has a diversified market-based economy and a population of approximately 8.8 million, including an estimated 650,000 undocumented Haitians. Tourism, telecommunications, and exports from Free Trade Zones (FTZs) were major sources of foreign currency and providers of employment. Remittances from abroad exceeded $2.5 billion. Economic growth for the year was estimated at 2 percent. Inflation was estimated at an annual rate of 29 percent. Wages and benefits did not keep pace with inflation.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Members of the security forces continued to commit unlawful killings. The police and, to a lesser degree, the military, tortured, beat, or otherwise abused suspects, detainees and prisoners. Prison conditions ranged from poor to harsh. Police arbitrarily arrested and detained suspects and suspects' relatives. Lengthy pretrial detention and long trial delays continued to be problems. The authorities sometimes infringed on citizens' privacy rights, and police entered private homes without judicial orders. Journalists and editors practiced self-censorship. The Government restricted the movement of Haitian and Dominican-Haitian migrants and forcibly expelled some of them. Other serious problems included violence and discrimination against women; child prostitution; abuse of children; discrimination against persons with disabilities; and severe discrimination against and abuse of Haitian migrants and their descendants. Trafficking in persons was a serious problem, although the Government increased its investigations of traffickers. There continued to be reports of forced labor. Some workers were not able to organize freely and continued to face unsafe labor conditions. Child labor was a serious problem.

The Government made some advances in improving respect for human rights and worker rights. Notably, a new Criminal Procedures Code took effect in September that provided suspects with additional protections. A new Code for Minors took effect in October that provided for additional protections and stiffer sanctions in cases of sexual or commercial exploitation. The judiciary continued to consolidate its independence and carry out reforms aimed at greater efficiency and due process. Additional military and police units received training in human rights. A new penitentiary school began training guards and administrators. Congress passed a law allowing free access to public information. The Government improved its capacity to fight trafficking in persons and increased investigations of traffickers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, security forces were involved in many killings that were unlawful, unwarranted, or involved excessive use of force.

Security forces killed between 250 and 350 people during the year. In the majority of killings by police, the police stated that the deaths resulted from a gunfire exchange in the course of an arrest, which required officers to act in self-defense. A number of eyewitness accounts corroborated police reports; others did not. Many killings were related to aggressive tactics on the part of the police.

The National Commission on Human Rights reported approximately 300 killings by security forces, 20 of which occurred after a new National Police chief took control of the police department in August. A major newspaper reported 360 deaths in "exchanges of gunfire" with police during the year, including 74 such deaths from

August until the end of the year. The National Police reported 75 deaths at the hands of officers between August and the end of the year, compared with 167 such killings during the same time period in 2003. According to the National Police, three of the post-August killings were unlawful. Accounts of incidents varied, and some went unreported.

According to the National Police, authorities had referred 30 cases to civilian courts for accusations of unlawful killings as of October. However, human rights organizations stated that the police employed unwarranted deadly force about as often against criminal suspects as in previous years, and uniformed vigilantism persisted on a less-than-deadly level (*see* Section 1.c.). The lack of qualified investigators and the nontransparent conduct of investigations of killings in "exchanges of gunfire" resulted in impunity in a number of cases.

In January, Sergeant Major Pablo Valdez Perez, Sergeant Cesar Troncoso Encarnacion, Corporal Wilson Aquino Garcia, and Corporal Nandy Beltre Espinosa rushed a car parked in front of the passenger's house at nighttime without identifying themselves as officers. The occupants tried to drive away, and the policemen opened fire, killing the passenger and injuring the driver. The case was referred to the civilian Court of Instruction in the National District. At year's end, three of the policemen were free on bail, and Beltre was awaiting a bail hearing.

Police Lieutenant Reyes Santana, known as "Tyson," and Sergeant Medina Medina were sentenced to 8 years in prison and required to pay indemnification of approximately $33,000 (1 million pesos) for a 2001 killing in which the officers claimed that there was an exchange of gunfire with the victim.

Many cases previously referred to courts for investigation remained unresolved or resulted in the release of the accused. The Supreme Court investigation into the court-ordered release of police officer Cristino Alvarez Ventura, who shot and killed a youth in September 2003, remained pending at year's end.

There were no developments in the case of the September 2003 mistaken identity killing by police officer Rubio Blondy and another officer. The case was sent to the civilian Court of Instruction in the National District where it remained in the investigation phase.

In the case against off-duty police officers Abel Garcia and Luis Castro Concepcion for the October 2003 killing of an advertising agent, a court dismissed charges against Garcia but convicted Castro and sentenced him to 4 months in jail.

Police lieutenant Juan Bautista Berroa and his accomplices were free on bail pending trial for an unlawful killing in 2002 in San Pedro de Macoris.

Pedro Encarnacion Baez, convicted of the 2001 killing of Carmelo del Rosario, was sentenced to 15 years in jail but has been free on bail since December 2002.

A significant number of deaths occurred in custody due to negligence by prison authorities (*see* Section 1.c.).

There were reports of violence against demonstrators and protesters by members of the security forces, including some deaths (*see* Section 2.b.).

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

There were no developments in the case of Narciso Gonzalez, a university professor and critic of the Balaguer Government who disappeared in 1994. In 2002, a judge ordered that former Secretary of the Armed Forces Constantino Matos Villanueva be tried in a criminal court in connection with the disappearance. The judge excluded two other individuals, General Leonardo A. de Jesus Reyes Bencosme and Air Force Colonel Manuel Concepcion Perez Volquez, from the case, although the victim's family appealed this decision. That appeal and Matos Villanueva's appeal of the decision to try him in criminal court remained pending in Santo Domingo's Court of Appeals. There was no action on the family's complaint to the Inter-American Commission on Human Rights.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the law prohibit such practices; however, some security forces personnel, primarily mid-level and lower-ranking police officers, continued to torture, beat, and otherwise physically abuse detainees and prisoners.

The law provides penalties for torture and physical abuse, including sentences from 10 to 15 years in prison. Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. New abuse and torture cases were remanded to civilian criminal courts as they arose; mid-level officers sometimes contested civilian jurisdiction (*see* Section 1.e.).

Senior police officials took the prohibition on torture and physical abuse seriously, but lack of supervision, training, and accountability throughout the law enforcement and corrections systems exacerbated the problem. Human rights groups reported repeated instances of physical abuse of detainees, including various forms of torture, beatings, and sexual abuse. Certain police units, called "the surgeons," intentionally

shot young men in the lower extremities during nighttime patrols as part of a strategy to deter crime, resulting in a number of serious injuries and amputations.

According to human rights organizations, both the National Police and prison officials used forms of torture. The method most often used was beating. Other forms included asphyxiation with plastic bags to elicit confessions and a method called "roasting the chicken" in which the victim was placed over hot coals and turned.

Police Colonel Francisco Beras Santos, accused in 2002 of torture and sexual violation of a woman in his police station, was released for lack of evidence.

According to the National Commission on Human Rights, military and police officials reportedly beat, tortured, and randomly deported Haitians living in the border towns of Pedernales and Elias Pina (*see* Section 2.d.).

National District Prosecutor's lawyers monitored the investigative process to ensure that detainees' rights were respected in high-volume police stations and in several DNCD offices (*see* Section 1.d.). There was some evidence that assistant prosecutors at times acquiesced in traditional police practices rather than attempt to raise these practices to constitutional standards. In some instances, authorities interpreted the presence of prosecutors as meaning that detainees could be held more than 48 hours after being transferred from police custody to prosecutorial custody. However, with the implementation of the new Criminal Procedures Code in September, detainees received additional protections, and respect for detainee rights improved, including through increased enforcement of time limits for pretrial detention (*see* Section 1.d.).

Both the National Police and armed forces offered training courses for human rights (*see* Section 1.d.).

Prison conditions ranged from poor to harsh. Reports of torture and mistreatment in prisons were common. The prisons were seriously overcrowded, health and sanitary conditions were poor, and some prisons were out of the control of the authorities. The General Directorate of Prisons is under the authority of the Attorney General and was seriously underfunded. Budget allocations for necessities such as food, medicine, and transportation were insufficient. Inmates said that the food provided was unacceptable, and most sought to beg or purchase food from persons in the vicinity of the prison or to obtain it from family members. Prisoners and human rights groups alleged that prisoners were not taken to their trials unless they paid bribes to the guards (*see* Sections 1.d. and 1.e.). Visitors often had to bribe prison guards in order to visit prisoners. Prison officials accepted money in exchange for a recommendation that the prisoner be furloughed or released for health reasons. Prisons often did not provide adequate medical care to inmates. In Rafey prison, 30 percent of prisoners had skin problems such as scabies, 15 percent had hypertension, and 10 percent had respiratory problems. Prisoners immobilized by AIDS or who terminal illnesses were not transferred to hospitals, although some terminal-stage inmates were released to spend their last days at home.

According to the Directorate of Prisons, the police and the military held more than 13,500 prisoners and detainees in 35 prisons with a total intended capacity of approximately 9,000. Virtually all prisons experienced extreme overcrowding. La Victoria prison, the largest in the country, held more than 3,500 prisoners in a facility designed for 1,000 and had only 354 beds for all of the inmates. Rafey prison held approximately 1,200 prisoners, although it was designed to hold only 600.

Although a warden who reports to the Attorney General was responsible for running each prison, in practice, a police or military officer (generally appointed for a period of only 3 to 6 months and responsible for providing security) was usually in charge of the prison. Some prisons were totally out of the authorities' control and were, in effect, operated by armed inmates. Individual inmates could secure a tolerable level of existence only by paying for food, sleeping space, and medical care.

The press and human rights groups also reported extensive drug and arms trafficking within the prisons, as well as prostitution and sexual abuse, including abuse of minors. In February, the DNCD uncovered a large cache of drugs, alcohol, and weapons in Rafey prison. In August, three prisoners were burned to death during a riot in Mao that began as a dispute over the control of the drug trade in the prison.

In August, the Government inaugurated the National Penitentiary School in Santo Domingo. Graduates of the school served as career prison guards (replacing military or police guards on temporary prison duty assignment) and as prison administrators. The students received training in human rights and nonviolent restraint methods, and, by year's end, graduates had been posted to a new prison in Puerto Plata.

Female inmates were separated from male inmates, and about half of the total female population was held in a female-only prison. In general, conditions in the female prison wings were better than those in male prison wings. There were some

reports of guards abusing female inmates physically and sexually. There were also reports that, in the Najayo prison, guards forced women into prostitution in exchange for food and protection. Female inmates, unlike their male counterparts, were prohibited from receiving conjugal visits. Those who gave birth while incarcerated were permitted to keep their babies with them for a year.

The law requires that juveniles be detained separately from adults; however, juveniles often were mixed with the general population. The authorities sometimes treated minors as adults and incarcerated them in prison rather than juvenile detention centers.

Pretrial detainees were held together with convicted prisoners. Inmates were not separated by crime within the prison population; however, they could be put into solitary confinement for disturbances while incarcerated.

The Government permitted prison visits by independent human rights observers and by the press, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—The Criminal Procedures Code implemented in September prohibits detention without a warrant unless a suspect is apprehended in the act or in other limited circumstances; however arbitrary arrest and detention continued to present problems. The Constitution provides that an accused may be detained for only 48 hours before being presented to judicial authorities. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held; however, the police continued to violate constitutional and legal provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit or detaining suspects without a warrant. In particular, the police often detained all suspects and witnesses in a crime and used the investigative process to determine who were innocent and merited release, and whom they should continue to hold. Additionally, police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess. These practices were employed less often after the new Criminal Procedures Code came into force.

The National Police, numbering more than 27,000, serve throughout the country; there are no separate municipal forces. The Ministry of the Interior and Police is responsible for making policy decisions affecting the police force. The military is also charged with providing internal security.

According to the National Commission on Human Rights, the military and police collaborated with their Haitian counterparts at the border to accept bribes from Haitians attempting to cross illegally. The Institute of Human Dignity, a branch of the National Police which until August was headed by new Police Chief General Manuel de Jesus Perez Sanchez, monitors human rights abuses committed by members of the National Police. The Institute held more than 100 courses, seminars, and conferences, which were attended by more than 5,500 participants, including members of the National Police, armed forces, and civilians.

Training for military and DNCD enlisted personnel and officers included human rights courses. The Military Institute of Human Rights offered diploma courses in human rights and regularly sent representatives to border units to conduct mandatory human rights training. Nearly 7,000 participants from the military and civil society received training during the year.

Monitoring and sanctioning systems for abuses of human rights remained ineffective.

Police officers were fired for violent attacks, extortion, drug use, and trafficking. Significant problems of this nature remained, in part, because of insufficient vetting of the backgrounds of police recruits. It was alleged that many persons with prior criminal records were incorporated into police ranks, either under false names or with identification or recommendations from other state institutions, such as the army. Many members of the police force lacked basic education, had received inadequate training, and showed weak discipline, all factors that directly contributed to unlawful or unwarranted killings and to cruel or inhuman treatment (*see* Section 1.a.).

Police continued the practice of making frequent sweeps or roundups in low-income, high-crime communities in which they arrested and detained individuals arbitrarily, allegedly to fight delinquency. During these sweeps, police arrested large numbers of residents and seized property, including motorcycles, other vehicles, and weapons. Following the indiscriminate arrests, police regularly detained individuals for 20 days or more while they looked for a reason to charge them. Police stated that they relied upon unlawful detention without presentation to a court because some cases involved more complicated investigations. However, there was a clear pattern of police arrests of individuals before undertaking adequate investigation, and reliance on confessions obtained under questionable circumstances to make the

cases (*see* Section 1.c.). Prosecutors generally did not actively investigate cases; they often depended on police reports, many of which were based on forced confessions.

A related problem was the police practice of arresting and detaining individuals solely because of a familial or marital relationship to a suspect. A suspect's parents, siblings, or spouse particularly were vulnerable to this practice, the goal of which was to compel an at-large suspect to surrender or to coerce a confession from one already arrested. The National Commission on Human Rights reported 100 such cases as of August; however, it reported no additional cases after the appointment of General Perez Sanchez as police chief.

Local human rights observers reported roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly took groups of darker-skinned or "Haitian-looking" individuals to empty buildings soon after they were paid, in order to extort money from them.

Due to the historical inefficiency of the courts (*see* Section 1.e.), the granting of bail served as a de facto criminal justice system, and defendants awarded bail rarely faced an actual trial. In general, few defendants were granted bail, although bail became more prevalent following the implementation of the new Criminal Procedures Code, which requires judicial review of detentions at an earlier point in a criminal case.

Most detainees and prisoners could not afford adequate defense services. Several NGOs offered limited free legal services. The National Office of Judicial Defense, with foreign donor support, provided legal advice and representation to indigent persons. As of October, 22 lawyers had completed the Office's training program, and 21 were in training. These lawyers were the only full-time public defenders in the country and served only Santo Domingo, Santiago, and some smaller areas. The Supreme Court paid the public defenders' salaries without additional funding from the Government. The Supreme Court also paid 100 part-time defense lawyers across the country to provide legal services to indigent defendants. These lawyers did not provide the same level of service, often neglecting to communicate with defendants prior to scheduled court appearances; however, in July, they were incorporated into the National Office of Judicial Defense that holds them to the same performance requirements as other public defenders.

Many suspects endured long pretrial detention. According to several reports, 70 percent of the inmates nationwide were held without being charged or while awaiting trial. The average pretrial detention throughout the country was more than 6 months. Time served in pretrial detention counted toward a sentence. In an estimated 75 percent of all cases, the suspects were detained without action until the statute of limitations expired, leaving no action for the courts to take. Only 10 percent of those charged with a crime were actually convicted. The remainder were acquitted or released without judgment.

Detainees at police headquarters in Santo Domingo reported that they were held for 15 to 21 days. Juveniles held at the Department for Minors at the Villa Juana police station commonly were held well beyond the 12-hour limit for sending the case to the district attorney's Office. The law prohibits interrogation of juveniles by the police or in the presence of police.

The failure of prison authorities to produce the accused for court hearings caused a significant percentage of trial postponements (*see* Section 1.e.). Inmates often had their court dates postponed because they were not taken from the prison to court, or because their lawyer or witnesses did not appear. The authorities held some inmates even though there were no formal charges against them.

A large backlog of criminal cases remained in the National District and throughout the country. There were more than 300,000 cases pending as of September 27, when the new Criminal Procedures Code took effect, although many of these cases had exceeded the statutory limitation and may be removed from the system (*see* Section 1.e.). The Supreme Court's plans to unclog the court dockets proceeded slowly due to budget constraints. Dockets were crowded with traffic infractions that, by statute, should have been heard in traffic courts; these courts had not been established, due to a lack of funds. Other complications in clearing the backlog arose from the lack of funds for transporting inmates to court. Many cases were rescheduled when the accused or key witnesses did not appear. In some instances, a defendant would appear before the judge on the scheduled trial date, but the trial would not go forward due to the absence of one or more co-defendants. The decision of the trial judge to decline to try co-defendant cases separately prejudiced defendants who complied with the law.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, public and private entities persisted in attempts to undermine judi-

cial independence. The judiciary received training to improve its ability to resist outside interference, but undue influence remained a problem.

The judiciary includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are specialized courts that handle tax, labor, land, and juvenile matters. The Supreme Court is responsible for naming all lower court judges according to criteria defined by law. The Government has established 17 of the 25 tribunals provided for by law and 5 courts of appeals for children and adolescents. The 2003 Code for Minors outlines the judicial system for criminal cases involving juveniles and family disputes.

Until recently, military and police tribunals enjoyed exclusive jurisdiction over cases involving members of the security forces; however, some cases of killings allegedly committed during the year by members of the security forces were remanded to civilian criminal courts (*see* Section 1.a.). The judiciary was slow to adjudicate these cases. As of October, four such cases had been referred to civilian courts.

Prior to September 27, the judicial system was based primarily on the Napoleonic Code. Judges, rather than juries, rendered all verdicts. During the investigative phase, following the arrest, suspects were questioned repeatedly and urged to confess. The law established the citizen's right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right not to be a witness against oneself; and the right to a defense in an impartial and public trial. The authorities commonly violated these rights.

Under the pre-September 27 system, the most serious and common violations of the rights of the accused occurred when police detained suspects, sometimes for many days, without allowing them to contact family members, while subjecting them to frequent questioning (*see* Section 1.d.). Although entitled to have an attorney present, police often did not permit accused persons to contact legal counsel. If an attorney was engaged, a police officer might not permit him or her to be present during questioning. Torture frequently was used to coerce a confession during questioning (*see* Section 1.c.). The results of these interrogations often constituted the only evidence presented at the trial.

In September, a new Criminal Procedures Code replaced the old system. The Code supports an accusatory system intended to accelerate the processing of criminal cases. The Code also can be interpreted as providing that any crime may be tried in civilian court; this would imply that military or police tribunals should be used only for disciplinary actions. The changes under the new Code include: The requirement that police and prosecutors read defendants their rights upon arrest; the creation of an alternative dispute resolution mechanism to deal with certain crimes; the requirement that judges issue public oral dispositions on petitions for bail and in cases in which the maximum penalty is less than 3 years of incarceration; and the physical relocation of the defendant and defense counsel within the courtroom so that they are adjacent to the prosecutor and in front of the judge. The Attorney General's office and the judiciary also instituted "on-call" judges to provide 24-hour support to police who require immediate attention in the issuance of arrest warrants.

Citizens have recourse to the remedy of "amparo," an action to seek redress of any violation of a constitutional right, including violations by judicial officials.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution contains provisions against arbitrary entrance into one's home except when police are in hot pursuit of a suspect or when a suspect is caught in the act of committing a crime. All other entrances require a judge to issue an arrest or search warrant; however, the police conducted illegal searches and seizures. The Dominican Human Rights Committee reported that police carried out raids on private homes in many poor Santo Domingo neighborhoods. Additionally, police continued to detain relatives and friends of suspects to pressure suspects to surrender or to confess, although the frequency of such incidents decreased significantly in the last quarter of the year.

Although the Government denied using unauthorized wiretapping and other surreptitious methods to interfere with the private lives of individuals and families, human rights groups alleged continued interference. There was an active but illegal private wiretapping industry.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the Government generally respected these rights and did not restrict academic freedom; however, there were instances of official intolerance of the media. Individuals or groups generally were able to criticize the government publicly and privately without reprisal.

Newspapers and magazines presented a diversity of opinion and criticism. There were eight daily newspapers, a number of weekly newspapers, and several online news outlets. Editors at times practiced self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

There were many privately owned radio and television stations, broadcasting a wide spectrum of political views. The Government controlled one television station. The international media was allowed to operate freely.

There was continued criticism of the 2003 judicial takeover of the newspaper, radio, and television outlets owned by defunct bank Baninter. Ramon Baez Figueroa, majority shareholder of Baninter, was the subject of an ongoing criminal investigation for fraud and money laundering. After the judicial takeover, all editors of the outlets resigned and were replaced by government-appointed personnel. In September, the Supreme Court upheld a lower court ruling to return the media outlets to the Baez family pending the outcome of a determination on the merits of the asset seizure case.

The Government was criticized for firing popular reporters after taking control of the Baninter media. A popular program on one of the government-run radio stations was shut down in January, reportedly on the orders of the Government. A television reporter was suspended because his father, also a news personality, had appeared in a commercial for the opposition PLD party.

There were several reports of harassment of journalists. In February, authorities threatened reporters in Dajabon with detention and arrest after they criticized the government's plan to provide thousands of motorcycle taxi drivers with free or nearly free vehicles in advance of the elections.

In September, journalist Juan Andujar was killed and a colleague injured by gang members in Azua following a gun battle between the gang members and police. Andujar and other journalists were targeted by the gang, who reportedly believed that the journalists had instigated the police action by publicly denouncing cooperation between the gang and local police officials. In several shootouts, police killed five persons who were suspected of involvement in the Andujar killing.

The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association; however, the Government at times restricted these rights. Outdoor public marches and meetings require permits, which the Government usually granted. Police officers used force to break up demonstrations on several occasions during the year, sometimes causing deaths and injuries. In January, at least 6 persons were killed and more than 150 injured while protesting during a national work stoppage. More than 250 protesters were arrested.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution prohibits discrimination on religious grounds, and many religions and denominations were active.

The Catholic Church enjoyed special privileges not extended to other religions, under the terms of a concordat signed with the Government in 1954. For example, the Cardinal has the rank of a military general officer, and there is a Catholic church at the Presidential Palace. The Catholic Church also received public funding to cover some church expenses such as rehabilitation of church facilities. A complete waiver of customs duties on imports was extended to all religious denominations.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of travel, and the Government generally respected these provisions in practice; however, there were some exceptions. For example, human rights groups alleged that many Haitians were not allowed to leave the sugarcane plantations where they worked (*see* Section 6.e.). Local and international human rights groups cited discrimination against Haitian migrants, who were subject to arbitrary and unilateral action by the authorities.

Haitians continued to immigrate in great numbers to the country in search of economic opportunity, and many of them were repatriated. In some cases, the Government denied expellees the opportunity to demonstrate that they were legal residents or to make arrangements for their families or property.

The Constitution provides that anyone born in the country is a citizen, except those in transit or children born to diplomats; however, NGOs reported that children born of Haitian parents in the country often were denied registration as citizens under the transit exception, even if their parents resided in the country (*see* Section 5). It was estimated that more than 20 percent of Dominicans did not have a birth certificate or other identity document.

While the Government had a policy of strictly enforcing documentary requirements and repatriating those found lacking documents, it had a more tolerant unofficial policy fueled by the reality of dependence on Haitian labor for certain agricultural and construction work. An individual stopped as a suspected illegal Haitian migrant might be allowed to remain in the country despite lack of documentation, either through bribery or if an account of employment satisfied the official.

The law prohibits forced exile, and there were no reports of its use.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention relating to the Status of Refugees or its 1967 Protocol, but the Government has not established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. This protection generally applied to individuals who had gained access to the refugee process and had been issued proof that they were refugees or had applications pending. However, the Government did not apply standards agreed upon with the office of the U.N. High Commissioner for Refugees (UNHCR) to improve receipt and adjudication of refugee claims. To help the Government in this regard, in July 2003, the UNHCR strengthened its protection activities in the country by re-establishing its presence in Santo Domingo.

An applicant for refugee status must be referred by the National Office of Refugees in the Migration Directorate to the Technical Subcommittee of the National Commission for Refugees, which is chaired by the Foreign Ministry. The subcommittee has the responsibility of making a recommendation to the Commission, made up of members from the Foreign Ministry, the DNI, and the Migration Directorate. The Commission, with responsibility for the final decision on the application, includes the three members of the subcommittee, the legal advisor to the President and members from the National Police, the Ministry of Labor, and the Attorney General's office.

As of October, the Migration Directorate reported 212 applications awaiting decision, nearly all by Haitians. Some of these cases have been pending since 2000, when the UNHCR temporarily stopped processing cases. According to the UNHCR, there were as many as 600 recognized refugees in the country, most of whom lacked sufficient documentation to allow them to work legally and access other rights.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The President and the members of the Senate and the Chamber of Deputies are elected freely by secret ballot in alternating 4-year cycles. The Central Electoral Board conducts all elections. The Constitution was amended in 2002 to permit the president to be reelected once.

In May, PLD candidate Leonel Fernandez won the presidency in an election described as generally free and fair by the Organization of American States (OAS), the National Democratic Institute (NDI), and the International Foundation for Electoral Systems (IFES), as well as by the government electoral board and domestic NGOs. President Fernandez took office in August.

There is universal adult suffrage for documented citizens, except that active duty police and military personnel may not vote or participate in partisan political activity. During the year, several senior military officers publicly expressed their support for President Mejia's reelection and were accused of illegal partisan activities, but no legal action was taken against them.

The nation had a functioning multiparty system.

There were reports of, and a widespread perception of, corruption in government. A number of investigations into corruption by government officials were underway, including of former Attorney General Victor Cespedes Martinez of the Mejia administration, who had ordered the release of several drug traffickers on questionable grounds.

In July, Congress passed and the President promulgated a comprehensive law providing public access to government information; however, many of the requests remained pending. The law limits the availability of public information only under specified circumstances (such as to protect national security) and provides for a penalty of 6 months to 2 years in prison and a 5-year ban from positions of public trust for government officials who obstruct access to public information. A civilian court may review the decision of an agency to deny access to information.

Women and minorities confronted no serious legal impediments to political participation. By law, parties must reserve for women 33 percent of positions on their lists of candidates for city councils; in practice, the parties often placed women so

low on the lists as to make their election difficult or impossible. A woman, Milagros Ortiz-Bosch was Vice President and Minister of Education in the outgoing Mejia administration. There were 2 women in the 32-member Senate and 24 women in the 150-member Chamber of Deputies. There were 5 women on the 16-seat Supreme Court and 3 in the PLD cabinet named in August.

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

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

Principal local groups included the Dominican Human Rights Committee, the National Human Rights Commission, and the Santo Domingo Institute of Human Rights. There were also several smaller organizations, both secular and religious, that addressed, among other things, women's rights, labor issues, and the rights of Haitians.

In May, the OAS, NDI, and IFES monitored the presidential elections, as did the local NGO Citizen Participation. The OAS mission had full access to the electoral process (*see* Section 3).

A 2001 law created a human rights ombudsman's office with authority over public sector problems involving human rights, the environment, women's issues, youth issues, and consumer protection; however, selection of an ombudsman remained pending at year's end.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race and sex; however, such discrimination existed, and the Government seldom acknowledged its existence or made efforts to combat it.

Women.—Domestic violence continued to be a serious problem. Several newspaper articles alleged that society had become more violent, and many government officials and NGOs publicly denounced the problem. A local NGO estimated that between 10 and 15 women died monthly from domestic abuse; however, many cases were unreported. Under the Law Against Domestic Violence, the State can prosecute for rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from 1 year to 30 years in prison and carry fines ranging from approximately $20 to $7,000 (500 to 200,000 pesos). The Secretariat of Women, as well as various NGOs, conducted outreach programs on domestic violence and legal rights. The Non-Violence Department of the Secretariat of Women received approximately 500 complaints of domestic violence cases during the year. A local NGO, the Alliance for the Rights and Development of Women, which provided services for victims of intrafamilial abuse, reported receiving more than 3,000 calls to its abuse hotline. Female victims of abuse had few resources, although the NGO Piedra Blanca opened a shelter for battered women, and the Secretariat of Women supported operation of a center for victims of domestic violence in Bani, where victims of abuse could make a report to the police and receive counseling.

According to the National Commission on Human Rights, 90 women were killed in "crimes of passion" by their spouses or lovers, compared with 140 such victims in 2003.

Rape was a serious and widely underreported problem. In 2002, the last year for which official statistics were compiled, the Secretariat of Women reported more than 3,300 complaints of sexual abuse. The penalties for committing rape are 10 to 15 years in prison (or 10 to 20 years in case of rape against a vulnerable person or under other egregious circumstances) and a fine of approximately $3,300 to $6,600 (100,000 to 200,000 pesos). The State may prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against a spouse. Victims often did not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. The police were reluctant to handle rape cases and often encouraged victims to seek assistance from NGOs.

Prostitution is not prohibited by law, although there are some prohibitions against sex with minors and it is illegal for a third party to derive financial gain from prostitution; however, the Government usually did not enforce prostitution laws. Sex tourism grew throughout the country as the number of international visitors increased. Human rights groups reported increased prostitution in sugarcane work camps. NGOs conducted programs on prostitution and child sexual exploitation for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups.

Trafficking in women and children was a problem (*see* Section 5, Trafficking).

The law prohibits sexual harassment in the workplace, which was considered a misdemeanor and carried a possible penalty of 1 year in prison and a fine of up to $333 (10,000 pesos); however, the law was not enforced and sexual harassment was a problem. The Dominican Labor Foundation estimated that approximately 40 percent of female workers in the free trade zones were victims of sexual harassment by supervisors or coworkers and that women who resisted the unwanted advances of supervisors were fired, threatened, or otherwise discriminated against.

Under the law, women enjoy the same legal status as men; however, in practice, women experienced discrimination. Traditionally, women have not enjoyed equal social and economic status or opportunity with men, and men held the majority of leadership positions in all sectors. In many instances, women were paid less than men in jobs of equal content and equal skill level. Some employers reportedly gave pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders and human rights advocates reported that pregnant women often were not hired, and that female employees who became pregnant sometimes were fired. There were no effective government programs to combat economic discrimination against women.

Active women's rights groups included Santiago-based NGO Nucleo de la Mujer, the Collective for Women and Health, and Profamilia.

Children.—The Government declared its commitment to children's rights and welfare and tried to increase protection for children, with emphasis on eliminating child labor. The Code for Minors, which was implemented in October, recognizes the National Council for Children and Adolescents (CONANI) as a noncabinet, decentralized public agency to coordinate public policy to protect children's human rights and to administer the Code. The law stipulates that CONANI is to receive at least 2 percent of the national budget and that a minimum of 5 percent of municipal government budgets must be devoted to projects to benefit children; however, this requirement was not met.

The General Education Law provides for a free, universal, and compulsory education for all minors through the eighth grade, but legal mechanisms provide only for primary schooling, which was interpreted as through the fourth grade. The Ministry of Education reported a 97 percent enrollment rate in grades 1 through 8; however, a government study also estimated that the average grade level achieved for children in public schools was the fifth grade in rural areas and the sixth grade in urban areas. Children of Haitian descent, and of undocumented citizens experienced difficulties gaining acceptance to schooling due to their lack of official status.

The Code for Minors empowers minors to denounce their parents or guardians to the police in case of mistreatment. It also provides for removal of a mistreated child to a protective environment.

Abuse of children, including physical, sexual, and psychological abuse, was a serious problem. The Department of Family and Children reported approximately 40 cases of abuse per month in Santo Domingo. Few such cases reached the courts due to fear of family embarrassment, lack of economic resources, or lack of knowledge regarding available legal assistance. In 60 percent of the cases, the accused was a person close to the child, such as a family member or close family friend. In a highly publicized case in October, 7 individuals were accused of sexually abusing at least 29 young children at a shelter in Higuey. At year's end, all of the suspects were in detention awaiting trial.

According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. The Code for Minors contains strengthened provisions against the problem areas of child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor (*see* Sections 5, Trafficking and 6.d.). The Code for Minors provides for a penalty of between 2 and 5 years' incarceration and a fine of 3 to 5 times the minimum wage for persons found guilty of abuse of a minor. The penalty is doubled if the abuse is related to trafficking.

Trafficking and sexual exploitation of children also was a problem, particularly in popular tourist destinations (*see* Section 5, Trafficking). Poor adolescent girls and boys sometimes were enticed into performing sexual acts by the promise of food or clothing.

Child labor was a serious problem in the informal sector of the economy (*see* Section 6.d.).

Trafficking in Persons.—The comprehensive Law Against Trafficking in Persons and Alien Smuggling, enacted in August 2003, prohibits trafficking of persons; however, trafficking in women and children from, to, and within the country remained a serious problem.

Several laws may be applied to prosecute those who traffic in persons. The new law against trafficking is the most comprehensive and includes penalties for traffickers of 15 to 20 years' imprisonment and a fine of 175 times the minimum wage. The Code for Minors penalizes sexual abuse of children with 20 to 30 years' imprisonment and fines from 100 to 150 times the minimum wage.

The Attorney General's anti-trafficking unit coordinated the investigation and prosecution of all trafficking cases. Units at the National Police, the Migration Directorate, and the Attorney General's office targeted trafficking in persons, as did the interagency Committee for the Protection of Migrant Women, composed of seven governmental institutions, one professional association, two NGOs, and a religious order. The Attorney General's office also created a unit specifically to investigate electronic crimes, including sexual exploitation of minors via the Internet. The Ministry of Foreign Affairs provided compulsory training at its Diplomatic and Consular School on identifying the trafficking of citizens overseas and assisting victims. The NGO Foundation for Institutionalism and Justice conducted training for prosecutors and judges on how to implement the new anti-trafficking law.

Government agencies that had a role in combating trafficking often kept statistics only on illegal immigration, since they seldom differentiated between trafficking and illegal immigration. Not all illegal migrants were trafficked; many traveled willingly for economic motives. NGOs such as the Center for Integral Orientation and Investigation (COIN), and international organizations such as the International Organization for Migration (IOM) formulated estimates through interviews with individuals and through extrapolation. The IOM estimated that 30,000 Dominicans were trafficked in 2003, of whom approximately half were women trafficked for prostitution.

Women 18 to 25 years of age were at the highest risk of being trafficked. Many victims were uneducated single mothers desperate to improve the living conditions of their children. Principal destination countries were in Europe and Latin America, and included Spain, Italy, the Netherlands, Switzerland, Sweden, Germany, Austria, Greece, Panama, Costa Rica, Argentina, and Australia.

Within the country, the prostitution of minors, primarily in the tourist areas, was a serious problem. The press reported that up to 30,000 children and adolescents may be involved in the sex industry. An official 2003 study estimated that 50 to 60 Haitian children were trafficked into the country each week and that many Haitian girls age 12 and older were brought into the country to work as prostitutes.

In June, a raid in Boca Chica resulted in the rescue of 24 children, 1 of them only 7 years old, who were being sexually exploited. The raid, which was based on a complaint filed by the NGO International Justice Mission, resulted in five arrests. At year's end, the case was in the Court of Instruction.

In October, police in Santiago closed down a child pornography ring that posted explicit photos of young children on the Internet. Police also closed down bars in Santiago and Montecristi that were being used for child prostitution.

NGOs estimated that there were hundreds of alien smuggling and trafficking rings operating within the country. According to COIN and the IOM, trafficking organizations were typically small groups. Individuals in the country recruited the persons to be trafficked and obtained identification and travel documents. Traffickers were frequently introduced to women through friends and family; they promised some form of employment, obtained false or legitimate documents for the women, and often retained their passport once in the destination country. Trafficking organizations reportedly received $5,000 to $8,000 (150,000 pesos to 240,000 pesos) for trafficking a woman or child for purposes of prostitution.

Some elements within the tourist industry facilitated the sexual exploitation of children. Particular problem areas were Boca Chica, Puerto Plata, and Sosua. Foreigners overseas marketed tours by suggesting that boys and girls could be found as sex partners.

In September, the Supreme Court resumed proceedings in the trial of Congressman Guillermo Radhames Ramos Garcia (formerly a consul in Cap Haitien, Haiti) on charges of alien smuggling. Because of Ramos Garcia's status as a Congressman, the case was assigned directly to the Supreme Court.

The Government provided limited assistance to trafficking victims by working with NGOs to develop job-training programs for returned women. When trafficked individuals were repatriated from abroad, they were given a control record that went into their official police record and were interviewed by a migration inspector. According to COIN, most victims were too embarrassed or frightened to seek legal action against traffickers. The Government continued specialized training for consular officials posted in Europe on how to provide assistance to trafficked persons. COIN worked to develop relationships with embassies and consulates that serve trafficked victims and with other NGOs in destination countries that serve similar

populations. There were several church-run shelters that provided refuge to children who escaped prostitution.

The Government made efforts to investigate, fire, and prosecute when appropriate public officials who facilitated, condoned, or were complicit in trafficking activities or migrant smuggling. NGOs alleged corruption among the military and migration officials stationed at border posts and noted that these officials sometimes facilitated the illegal transit of Haitian workers into the country to work on sugar plantations and construction sites (*see* Sections 2.d. and 6.c.). There were also elements within the Office of Migration and the national police that organized or facilitated the smuggling of aliens, including Cubans and Asians, through the international airports. For example, in September, two migration inspectors, a police captain, and an army sergeant were fired for helping two undocumented Dominicans board a flight to the United States. The matter was referred to civilian authorities.

The Department of Family and Children was concerned about kidnappings, especially of infants, for sale to foreigners who deliberately sidestepped legal formalities, including those of their own countries. The Government sought to protect children from being victimized by such tactics by making adoptions by foreigners more difficult.

COIN counseled women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other problems, including the dangers of trafficking, forced prostitution, and domestic servitude. COIN administered the Center for Health and Migration Information for Migrant Women, which carried out community education campaigns in high risk areas on various issues, including citizenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude. With IOM support, COIN also provided a minimal level of clinical services and adult education classes for returned women.

Persons With Disabilities.—Persons with disabilities encountered discrimination in employment and in the provision of other services. The law provides for physical access for persons with disabilities to all new public and private buildings; however, the authorities did not enforce this law uniformly. Some business owners voluntarily provided access to buildings for persons with disabilities. The Dominican Association for Rehabilitation, which has 17 branches around the country, receives a subsidy from the Ministry of Public Health to provide rehabilitation assistance to persons with disabilities. Little effort was made to design public works so as to accommodate persons with disabilities. For example, a new pedestrian bridge built over a major intersection in Santo Domingo did not have any access except by stairs.

Discrimination against persons with mental illness was common, and there were few resources dedicated to the mentally ill.

National/Racial/Ethnic Minorities.—There were strong prejudices against Haitians, which disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of dark complexion (*see* Sections 1.d. and 2.d.). The Government rarely acknowledged the existence of this discrimination.

Efforts by the authorities to stem the influx of illegal Haitian immigrants made life more difficult for those Haitians already in the country legally. Police regulations permit the confiscation of vehicles offering transportation to illegal immigrants, thereby discouraging taxi and bus drivers from picking up darker-skinned persons. In roundups aimed at illegal immigrants, the authorities picked up and expelled darker Dominicans as well as legal Haitian residents (*see* Section 1.d.).

The IOM estimated that approximately 650,000 Haitian immigrants—or 7.5 percent of the country's population—lived in shantytowns or sugarcane work camps known as "bateyes," which were harsh environments with limited or no electricity, usually no running water, and no adequate schooling. Human rights NGOs, the Catholic Church, and activists described Haitian living conditions in bateyes as modern-day slavery. In most bateyes, medical assistance either was rudimentary or not readily available. Housing in the bateyes was poor; many individuals slept in barracks on iron beds without mattresses or on dirt floors. Many families of five or more shared living quarters that measured as little as 10 feet square. Bathroom facilities, where they existed at all, were generally unhygienic, and cooking facilities were usually improvised. The availability of fresh food, including fruits and vegetables, was severely limited. Clean water was often unavailable.

Some individuals estimated that as many as 1 million Haitians lived in the country, but several Haitian rights NGOs were concerned that this estimate included Haitians born in Haiti with their offspring born in the Dominican Republic. The Government refused to recognize and document as citizens many individuals of Haitian ancestry born in the country (*see* Section 2.d.). Since many Haitian parents never possessed documentation for their own births, they were unable to demonstrate their own citizenship or that of their children.

Lack of documentation sometimes deprived children of Haitian descent of the opportunity to attend school, even where there was one available. When permitted to attend primary school, the children of Haitian parents rarely progressed beyond the sixth grade. A legal ordinance allows undocumented children to attend school through the fifth grade; however, some school administrators denied access to school to undocumented children, particularly Haitians. The Central Electoral Board agreed to facilitate acquisition of birth certificates by parents who could produce identity cards so that all children might have birth certificates to enroll in school; however, this did not help children whose parents had no documentation or had only Haitian identification papers. NGOs reported that undocumented Haitian children were prevented from enrolling in school to a greater degree than were similarly undocumented Dominican children.

Other Societal Abuses and Discrimination.—Persons With HIV/AIDS, particularly women, faced discrimination in the workplace and elsewhere. An estimated 50 to 100 thousand people in the country were infected with the disease. According to Human Rights Watch, workers in many industries faced involuntary HIV testing in the workplace or when seeking medical care or medical insurance. Workers or patients found to have the disease could be fired from their jobs or denied adequate healthcare. The law prohibits the use of HIV testing to screen employees or for medical services unrelated to the disease; however, the law rarely was enforced.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the freedom to organize labor unions, and all workers, except the military and the police, were free to form and join unions of their choice. Organized labor represented an estimated 8 percent of the work force. The Labor Code calls for automatic recognition of a union if the Government has not acted on its application within 30 days.

The law forbids companies to fire union organizers or members; however, it was enforced inconsistently, and penalties were insufficient to deter employers from violating worker rights. There were additional reports of intimidation by employers in an effort to prevent union activity, especially in the free trade zones (FTZs) (*see* Section 6.b.). The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) continued to report anti-union activity at the FM company in Santiago, 1 of 22 production facilities belonging to apparel manufacturing firm Grupo M, the largest private sector employer in the country. The 2003 case alleging that an FM supervisor beat an employee for attending labor union organizing meetings remained pending before a labor court in Santiago.

A court in Santiago fined the FTZ company Ramsa approximately $660 (19,700 pesos) for violating Labor Code protections when, in 2002, it fired approximately 140 employees seeking a collective bargaining agreement. Ramsa also was found guilty of violating laws regarding maternity rights but appealed that sentence.

b. The Right to Organize and Bargain Collectively.—Collective bargaining is legal and must take place in firms in which a union has gained the support of an absolute majority of the workers. Few companies have collective bargaining pacts, and the International Labor Organization (ILO) considered the requirements for collective bargaining rights to be excessive and an impediment to collective bargaining.

The Labor Code establishes a system of labor courts for dealing with disputes. While cases did make their way through the labor courts, enforcement of judgments was sometimes unreliable.

The Constitution provides for the right of workers to strike (and for private sector employers to lock out workers). Formal requirements for a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike. Government workers and essential public service personnel are not allowed to strike but occasionally did. Brief work stoppages and unofficial strikes were more common.

A few labor unions represented a small number of Haitian workers, who are covered by the Labor Code regardless of legal status. Some NGOs reported that the majority of Haitian laborers in the sugar and construction industries did not exercise their rights under the Labor Code, fearing deportation or job loss.

The Labor Code applies in the 40 established FTZs, which employed approximately 190,000 workers. According to the National Council of Labor Unions, only four of the unions that had achieved collective bargaining agreements in the FTZs were active. Workplace regulations and their enforcement in the FTZs did not differ from those in the country at large, although working conditions were sometimes better, and the pay was occasionally higher. Mandatory overtime was a common prac-

tice, and it was sometimes enforced through locked doors or loss of pay or jobs for those who refused (*see* Section 6.c.).

There were reports of widespread covert intimidation by employers in the FTZs in an effort to prevent union activity (*see* Section 6.a.). Unions in the FTZs reported that their members hesitated to discuss union activity at work, even during break time, for fear of losing their jobs. Some FTZ companies were accused of discharging workers who attempted to organize unions. The majority of the unions in the FTZs were affiliated with the National Federation of Free Trade Zone Workers (FENATRAZONAS) or FEDOTRAZONAS (*see* Section 6.a.). FEDOTRAZONAS estimated that less than 10 percent of the workers in the FTZs were unionized. Employer resistance to union organization, especially in the FTZs, increased in response to growing competitive pressure from firms in Central American countries and China.

Many of the major manufacturers in the FTZs had voluntary codes of conduct that included worker rights protection clauses that were generally aligned with the ILO Declaration on Fundamental Principles and Rights at Work. Workers were not always aware of such codes or the principles they contained.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5). Some young children, particularly Haitians, were "adopted" by families and worked under a kind of indentured servitude (*see* Section 6.d.). There were also reports that workers in sugarcane plantations were prevented from leaving during the harvest (*see* Section 6.e).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Labor Code and the new Code for Minors prohibit employment of children less than 14 years of age and place restrictions on the employment of children under the age of 16; however, child labor was a serious problem. The ILO estimated that 18 percent of children between the ages of 15 and 17 engaged in some sort of work. Regulations applying to children between the ages of 14 and 16 limited the number of hours worked daily to 6, prohibited employment in dangerous occupations or in establishments serving alcohol, and limited nighttime work. Fines and legal sanctions may be applied to firms employing underage children.

The high level of overall unemployment and the lack of a social safety net created pressures on families to allow or encourage children to earn supplemental income. Tens of thousands of children began working before the age of 14. Child labor took place primarily in the informal economy, small businesses, clandestine factories, sugarcane fields, and for purposes of prostitution. Conditions in clandestine factories were generally poor, unsanitary, and often dangerous. There was evidence that poor Haitian and Dominican adolescents accompanied their parents to work in the cane fields, with the tacit approval of sugar companies. Children 12 years old and younger also worked planting sugarcane, earning as little as $1 (30 pesos) for a full day of labor.

Some poor Haitian families arranged for Dominican families to "adopt" and employ their children, in hopes of assuring a more promising future for them. The adopting parents usually registered the child as their own. In exchange, the birth parents received monetary payment or a supply of clothes and food. In many cases, adoptive parents did not treat the adopted children as full family members and expected them to work in the households or family businesses rather than to attend school. This resulted in a kind of indentured servitude for children and adolescents.

The Ministry of Labor, in collaboration with the ILO's Program for the Eradication of Child Labor and other international labor rights organizations, continued programs to combat child labor. These included programs to eliminate child labor in the tomato-producing Province of Azua, the coffee-growing Province of San Jose de Ocoa, and the agricultural province of Constanza, and a program to combat the commercial sexual exploitation of minors in popular tourist destinations. The Ministries of Labor and Education continued to support the Combating Child Labor through Education Program, which established several camps that hosted more than 1,000 children and adolescents. An ILO and Ministry of Labor program in Boca Chica against the commercial sexual exploitation of minors provided psychological support and medical assistance, returned children to classrooms, and reunified children with their families and communities whenever possible. The program also provided legal assistance to child victims in order to arrest and convict exploiters. The Ministry of Education earmarked approximately $17 (500 pesos) monthly to the poorest families to keep their children in school and away from work. The Armed Forces sponsored a program to rescue, supervise, and rehabilitate victims of child labor or those at risk and operated several walk-in programs and a permanent "village" that provided room, board, and educational activities.

There were no confirmed reports of forced child labor in the formal sector.

e. Acceptable Conditions of Work.—The Constitution empowers the executive branch to set minimum wage levels for public workers, and the Labor Code assigns this task to the National Salary Committee for the private sector, with the exception of workers in the FTZs and the sugar, construction, hotel, and shoe manufacturing industries. The minimum monthly salary was approximately $119 (3,561 pesos) in the FTZs and $164 (4,920 pesos) outside the FTZs. The minimum wage for the public sector was approximately $64 (1,906 pesos) per month. The minimum wage for farm workers who are covered by the minimum wage regulations was approximately $0.43 an hour (13 pesos), based on a 10-hour day. The national minimum wage did not provide a decent standard of living for a worker and family.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The Code stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek was Monday through Friday plus a half day on Saturday, but longer hours were common. The Code grants workers a 35 percent premium for work totaling between 44 hours to 68 hours per week and double time for any hours above 68 hours per week. Overtime was mandatory at some firms in the FTZs.

The law prohibits the imposition of HIV tests to work; however, many companies routinely tested workers or applicants for HIV as a condition of employment and fired or failed to hire them on that basis (*see* Section 5).

Conditions for agricultural workers were poor, particularly in the sugar industry. Most sugarcane worker villages lacked schools, medical facilities, running water, and sewage systems, and had high rates of disease. Company-provided housing was usually sub-standard (*see* Section 5). Approximately 83 percent of sugarcane workers were Haitian or of Haitian descent.

On sugar plantations, cane cutters usually were paid by the weight of cane cut rather than the hours worked. Employers sometimes did not provide trucks or carts to transport the newly cut cane at the conclusion of the workday, causing workers to receive lower compensation because the cane dried and then weighed less. The amount of cane a worker could cut varied, but many cane cutters earned less than $3 (75 pesos) per day, and some reported earning as little as approximately $1.50 (40 pesos) per day. Workers were paid every 2 weeks with tickets that were exchangeable for cash only in centers that often were far away. Because workers earned so little and sometimes could not wait to redeem their tickets, an informal barter system evolved in which the tickets were used to purchase items at private stores located on the plantations. These private stores made change by giving back a combination of tickets and cash, but the stores often retained 10 percent of the cash due a customer as a "service charge."

In various sugarcane industry shantytowns, field guards reportedly kept workers' clothes and documents to prevent them from leaving until the end of the harvest. Employers also withheld wages to keep workers in the fields. Sugarcane workers were paid less, worked longer hours, and had fewer benefits than workers in other industries. One monitor in a batey reported that laborers worked 14–16 hours per day—a violation of the Labor Code. Many older sugarcane workers, who had lived in sugarcane shantytowns for 50 years and longer, had not received pensions for which deductions had been taken from their pay. Several NGOs asserted that the privatization of the sugarcane industry was the reason the Government did not enforce protection laws for cane cutters' rights.

The San Pedro de Macoris Diocese, which had developed a proposed model work contract and had submitted it to the Vicini Consortium and other companies in 2001, continued to promote Haitian worker rights in the bateyes and to seek a work contract for Haitian workers. The Vicini Consortium undertook some initiatives to improve the living conditions of sugarcane workers; for example, they demolished a number of barracks that had provided unfit living space and replaced them with more modern structures.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. The Secretariat of Labor had 220 active inspectors. Inspector positions customarily were filled through political patronage, and inspectors often took bribes from businesses. The Labor Code requires that employers provide a safe working environment; however, in practice, workers could not remove themselves from hazardous working situations without losing their jobs.

ECUADOR

Ecuador is a constitutional republic with a unicameral legislature that was chosen in free and fair elections in October 2002. The National Congress is composed of 4 major parties, 5 minor parties, and 13 coalitions and independents spanning the spectrum from center right to extreme left. In November 2002, voters elected Lucio Gutierrez President, and he assumed office on January 15, 2003. The judiciary is constitutionally independent but, in practice, was inefficient and susceptible to outside pressure.

The Ministry of Government is in charge of the National Police, which is responsible for domestic law enforcement and maintenance of internal order. The military supplemented the police, in some cases forming joint street patrols as an anti-crime measure. Some members of the security forces committed serious human rights abuses. The civilian authorities generally maintained effective control of the security forces, although the military continued to receive independent revenues generated from civil aviation, shipping, and other commercial sectors.

The economy is based on private enterprise, although there continued to be significant government involvement in key sectors such as petroleum, utilities, and aviation. The country's population was estimated at 12.8 million. The principal exports were oil, bananas, shrimp, and cut flowers, which, together with emigrant remittances and tourism, were the country's leading sources of foreign income, and the country employs the U.S. dollar as currency. Most citizens were employed in the urban informal sector or as rural agricultural workers; rural poverty was extensive, underemployment was high, and there was severe maldistribution of income. The annual real economic growth rate was 2.7 percent, and inflation was 1.9 percent.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. There were credible reports that security forces committed killings using excessive force. Members of the security forces faced prosecution and prison sentences for some violations. Police tortured and otherwise mistreated prisoners and detainees. Prison conditions remained poor. Persons were subject to arbitrary arrest, and prolonged detention was a problem. Once incarcerated, persons without lawyers may wait up to a year before being tried or released. The judiciary was susceptible to outside pressure and corruption, and authorities often did not observe due process rights for criminal defendants. More than 70 percent of the detainees in jail had not been sentenced formally. The Government prosecuted a few human rights abusers; however, in most cases there was no prosecution or punishment. There was some self censorship in the media. Violence and pervasive discrimination against women, indigenous people, and Afro-Ecuadorians remained problems. Trafficking in persons, sexual exploitation of minors, and child labor were problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, there continued to be credible reports that security forces used excessive force and committed killings. During the year, the Ecumenical Committee for Human Rights (CEDHU) reported 21 killings by security forces using unwarranted force.

In February, military security forces shot and killed a protester at a demonstration (*see* Sections 2.b. and 5).

On March 7, while investigating a domestic dispute, a policeman killed Luis Alfonso Ortiz Rodriguez. The policeman was imprisoned pending an investigation to determine whether the killing was accidental, and there was no further information at year's end.

On July 19, Erik Fabricio Lopez Yanez was shot and killed. The victim's relatives claimed that an intoxicated off-duty policeman fired several gunshots from his apartment at a group of local youths. The policeman and his brother were jailed pending the outcome of the investigation, and no further information was available at year's end.

In the November 2003 case in which police shot and killed eight people in a drugstore in Guayaquil, a police court absolved all officers involved except police sergeant Sergio Gaybor. On December 7, the judge called for a hearing in a criminal court for Gaybor, who was charged with disappearance (*see* Section 1.b).

In February, Maria Doraliza Lalbay died of a gunshot injury sustained during a demonstration and confrontation with the military. In December, a military court decided not to charge Major Jaime Serpa on the grounds that he acted in a situation where the victim disrupted public order.

On May 31, a provincial superior court in Los Rios Province acquitted 12 members of the military charged in the June 2003 killing of Julio Cesar Habil and the alleged torture of 3 of Habil's companions.

In March, a police court ruled on an appeal in the 2002 killings of David Delgado and Carlos Luna and found the policemen guilty. However, the policemen were released from prison when the appeal process began, and they were not detained again to serve their sentence.

There were no developments and none were expected in the case of the 2002 killings of Damian Pena and Luis Pachacama, during demonstrations.

The case of the 2002 killing of Marcelo Zambrano remained in the court system. Six policemen were charged and imprisoned; their trial has not begun pending a decision on their appeal of the call for a trial. Another 11 policemen were not charged, a decision that Zambrano's family appealed. Both appeals remained pending at year's end.

There were no known developments in the case of Fausto Bosquez, the policeman who escaped custody while being tried for the 2002 killing of Congressman Eduardo Vasconez or in the case against a policeman charged with the 2002 killing of Klever Abad.

A Supreme Court decision on the appeal of the conviction of four policemen for the 2001 killing of Elias Elint Lopez Pita and of the conviction of three policemen for the related killing of Luis Alberto Shinin Lazo remained pending at year's end. On February 4, the Attorney General recommended that the court find the policemen guilty.

There were cases of mob violence against suspected criminals, which occurred particularly in indigenous communities and poor neighborhoods of major cities, where there was little police presence (*see* Section 1.e.). However, Amnesty International (AI) reported that incidents of mob violence had decreased. There were no known arrests or developments and none were expected in the cases against those involved in lynching deaths in 2002.

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

Three persons allegedly disappeared while in police custody (*see* Section 1.b.). In November 2003, three men, Jhonny Gomez, Cesar Mata, and Edwin Vivar, disappeared after being detained by police during a drugstore robbery in Guayaquil. Although police denied holding the men, newspaper photographs showed a policeman and a former policeman leading a man away from the scene with his face covered. In April and May, the widows of the three and a local journalist were threatened. A police court acquitted all but one of the 21 suspects.

Criminal kidnapping for profit continued to be a problem throughout the country. There were also reports of extortion and threats of kidnapping of ranchers, farmers, and businessmen along the northern border with Colombia. Through November, police registered 11 kidnappings; however, there were no reliable estimates of the total number of such extortions or kidnappings often attributed to Colombian armed gangs—since many victims did not report the crimes for fear of retribution.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture and similar forms of intimidation and punishment; however, some police continued to torture and abuse suspects and prisoners, often with impunity.

CEDHU published detailed accounts of suspects who reported being tortured by specific police officers or members of the military. During the year, CEDHU registered 48 alleged cases of torture involving 24 victims. In most cases, the security forces appeared to have abused such persons during investigations of ordinary street crime or because of a personal grudge. The victims reported that the security forces beat them, submerged them in cold water, applied electric shocks, or threatened them. In some cases, the victims' bodies had bruises, which they claimed resulted from torture.

On June 22, members of the military allegedly tortured Carlos Brito Cortez, who claimed that a wet pillowcase filled with tear gas was held over his head and that he was given electric shocks because he stole medical equipment from the military hospital. He reported the crime to the Attorney General who did not open an investigation.

There were no new developments and none were expected in the case of Rodrigo Ron, who died in prison in 2002 and whose body showed evidence of a beating or in the investigation of four policemen for the torture of five persons in the city of Cuenca in 2002.

The Popular Combatants Group (GCP) and the Peoples' Revolutionary Militia continued to detonate small pamphlet bombs, principally in the major cities. The GCP claimed responsibility for 15 pamphlet bombs that were detonated in June during

the General Assembly of the Organization of American States (OAS). There were no reported injuries.

Conditions in prisons and detention centers generally were poor and tended to be worse in the tropical coastal areas than in the temperate highlands. Overcrowding was a chronic problem in most facilities. According to the National Social Rehabilitation Board (NSRB), during the year there were 10,203 prisoners nationwide in facilities built to hold 6,800. A number of prisons experienced serious outbreaks of disease, and medical care often was inadequate. The daily amount allocated for prison rations was $0.75 per inmate.

There were no known developments, and none were expected, in the prosecutor's investigation of an April 2003 case of a man who was sexually abused by other prisoners.

As was the case last year, inmates in a number of prisons protested a change in the detention law, the length of their sentences, and prison conditions. In January, prisoners in Quito's Men's Social Rehabilitation Center and in the Quito and Guayaquil women's prisons temporarily blocked the departure of visitors to protest the detention law. In February, for the same reason, prisoners at Penal Garcia Moreno in Quito took control of the prison and held more than 400 visitors hostage. In April, there were also protests regarding poor prison conditions at Quito's women's prison, Penal Garcia Moreno, and Carcel 3.

In March, prison employees at the Litoral Prison went on strike to demand payment of back wages.

The NSRB reported that 58 prisoners died during the year, compared with 26 in 2003. Half of the deaths resulted from illness, and one-third were attributed killings by other prisoners.

Women prisoners, who constituted 8 percent of the prison population, were held separately from men, and conditions were notably better in the women's prison in Quito than in other facilities. Children of female inmates often lived in prison with their mothers. There also were separate facilities for juveniles. Pretrial detainees were not held separately from convicted prisoners.

The Government permitted prison visits by independent human rights observers in most instances; however, in some cases, human rights observers were not permitted to visit prisoners who had been placed in isolated cells after they allegedly had been beaten.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, the authorities at times violated these prohibitions in practice.

The National Police are under the authority of the Ministry of Government. The effectiveness of the National Police was uneven, in part, due to its insufficient training, supervision, and resources. Some municipalities, such as Quito and Guayaquil, have their own metropolitan police forces in addition to the National Police. A police internal affairs office investigates complaints against police officers and can refer cases to the police courts. Nongovernmental organizations (NGOs) claimed that members of the metropolitan police occasionally used excessive force. Police corruption was sometimes a problem. The director of the National Police was under investigation for allegedly facilitating alien smuggling.

The National Police contracted with NGOs to provide human rights training. A 2003 AI report criticized the use of the police court system in cases involving possible human rights violations by police. AI argued that the design of the police court system and the appointment of active and retired police officials as judges prevented the courts from acting impartially and independently and resulted in impunity for police officers who commit human rights violations. In November, AI issued a follow-up report, which concluded that there had been "no significant progress" on cases of serious human rights violations documented in 2003 and that there had been no apparent efforts to address the impunity issues identified in 2003.

The law requires authorities to issue specific written arrest orders within 24 hours of detention, and authorities must charge the suspect with a specific criminal offense within 48 hours of arrest. All detained persons may challenge the legality of their detention by petition within 48 hours of their arrest, but, in practice, few such petitions were brought forward. The senior elected official (usually the mayor) of the locality in which the suspect is held reviews any such petitions. In February, two policemen, Maximo Bustamente Santana and Jose Quintanilla Estrada, were held on charges of arresting three people in November 2003 without arrest orders. They were held for 2 days before paying a $4 pre-sentencing release fine.

Regardless of the legality of a detention, a prisoner may be released only by court order. In some cases, detainees who are unaware of this provision, or who do not have the funds to hire a lawyer, may remain in prison for an extended period before being released. Bail generally was not available, and the law prohibits it in cases

of narcotics and major offenses (offenses that "affect or put at risk" the public, punishable by 3 to 35 years' imprisonment).

NGOs reported that the Government did not have an established practice to enforce the law's provision that criminal detainees are entitled to prompt access to lawyers and family members. Delays varied depending on the circumstances and officials' willingness to enforce the law; alleged narcotics traffickers commonly waited 24 to 48 hours for these visits. Detainees with sufficient resources often bribed prison officials to facilitate access.

Although the law prohibits incommunicado detention, human rights organizations continued to report occasional violations. Even when police obtained a written arrest order, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. The system frequently was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges. Investigative detention up to and including trial is legal if a judge determines that it is necessary and if evidence that a crime has been committed is presented. The Criminal Procedures Code limits immediate detention to 24 hours for suspicion of committing a crime and establishes investigative detention of up to 6 months for minor offenses and 12 months for major offenses. However, the law permits prisoners to be held for an indefinite period after their trial has begun or indictments have been issued but before they have been convicted or sentenced. More than 70 percent of the detainees in jail had not been sentenced formally.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, in practice, the judiciary was susceptible to outside pressure and corruption.

The judiciary is composed of the Supreme Court, superior circuit courts, other courts and tribunals that hear cases in accordance with the Constitution and other laws, and the Judicature Council, which is charged with administering the court system and disciplining judges. There also are military and police tribunals that have the same status as circuit courts, as well as criminal, provincial, and cantonal (county) courts. The Supreme Court supervised the selection by open competition of all appellate judges.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The law permits police or military courts to try police officers and military defendants in closed sessions in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court often did not pursue cases or announce verdicts and punishments, reinforcing the strong impression that police were immune from prosecution. The Constitution places both police and military justice under the regular judicial system; however, the systems were not yet integrated, although weak efforts to do so continued.

On December 8, a majority in Congress voted to replace 27 of the 31 Supreme Court justices, claiming they should have been replaced in January 2003 according to the new Constitution. Critics charged Congress with overstepping its constitutional authority. The outgoing justices appealed their dismissal to the Inter-American Court on Human Rights.

Despite continuing efforts to modernize the court system, the judiciary continued to operate slowly and inconsistently. There were lengthy delays before most cases came to trial. Judges reportedly rendered decisions more quickly or more slowly as a result of political pressure or, in some cases, the payment of bribes. In July, the Government began a corruption investigation of Supreme Court Justice Olmedo Bermeo, who had allegedly acquired more than $1 million worth of property since being appointed to the court. He fled to Colombia but was returned to the country to face charges; at year's end, he was free on bail pending a judgment. In October, prosecutors initiated investigations into allegations that two other Supreme Court justices had not properly declared all of their assets.

The failures of the justice system contributed to cases in which communities took the law into their own hands, such as mob violence against suspected criminals (*see* Section 1.a.).

The law provides due process rights for criminal defendants, but the authorities, including the Chief Prosecutor's office, often did not observe these rights in practice. The Chief Prosecutor's office investigates and prosecutes crimes. Prosecutors have wide discretion in deciding which cases proceed. The National Police conducted investigations under the direction of the judicial police. There were no juries in the justice system. Defendants are presumed innocent until proven guilty and have the right to a public trial, defense attorneys, and appeal. They may present evidence, refuse to testify against themselves, and confront and cross-examine witnesses. Al-

though a public defender system exists, in practice, there were only 30 attorneys available to defend the large number of impoverished suspects.

Investigation of crimes is supposed to begin within 90 days of the initial arrest of a suspect. The investigation phase can take up to 2 years before the initiation of a trial. The majority of the accused remained in prison during the investigation phase. Nearly half of all incarcerated persons had not been tried and sentenced. Accused narcotics traffickers and suspects in major crimes cannot obtain bail or be released on their own recognizance.

The Constitution explicitly recognizes the indigenous communities' right to exercise their own system of justice, based on their traditions and customs. However, the law does not yet specify how this is to work in practice. This parallel system raised questions of both jurisdiction and conformity to the right to a fair trial.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

Wiretapping by the national police to investigate crimes is legal with a court order; however, there is no specific procedural guidance for obtaining such approval. Therefore, when members of the police did conduct wiretapping in the course of criminal investigations, sometimes it was not officially sanctioned.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some significant exceptions. Public figures brought criminal charges of slander and libel against journalists and other public figures. The law criminalizes slander and libel and provides jail sentences for offenders.

There was a free and vigorous press. Ownership of the media was broadly based, and editorials represented a wide range of political views and often criticized the Government. However, some degree of self-censorship in the print media occurred, particularly with respect to politically sensitive issues or stories about the military and its related industries. In addition, most elements of the media were influenced by economic considerations and tended to reflect the narrow, regional interests of their owners. Business and private interest pressures on the media sometimes constrained freedom of the press.

All major media organs—newspapers, radio, and television—were locally and privately owned, except for one government-owned national radio station. The law limits foreign investment in broadcast media. The Government invoked a law obliging the media to give it free space or broadcast time to require television and radio to broadcast government-produced programs, which featured the President and other top administration officials.

In August 2003, President Gutierrez filed slander charges against Guillermo Haro, a member of Congress who had accused the President and members of the military of corruption. Traditionally, the speech and activities of members of Congress have been protected by parliamentary immunity; however, President Gutierrez's political party and the Armed Forces attempted to build support in Congress for a vote to lift Haro's immunity. On February 9, the President of the Supreme Court of Justice also began the process for a penal judgment against Haro, but no further steps were taken.

Newspaper columnist Rodrigo Fierro's appeal of a September 2003 court ruling that he had slandered former president Leon Febres Cordero was denied, but his sentence was waived due to his age and the delay in issuing judgment.

In January, the Supreme Court upheld Ricardo Noboa's 3-month sentence for slandering a politician in 2002, and a judge ordered that he be detained. However, CEDHU reported that Noba had filed a countercharge to delay the process.

In September, President Gutierrez requested the Public Ministry to conduct a formal inquiry into allegations by a prominent radio director Diego Oquendo that Gutierrez accepted money from a Colombian guerilla group. After an investigation, the Attorney General cleared Oquendo of charges of offending the President and putting national security at risk; however, the Public Ministry's inquiry remained open at year's end.

The Government did not restrict Internet access or academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of peaceful assembly and association, and the Government generally respected these righs in practice; however, security forces used force to quell some violent demonstrations, resulting in one death and several injuries. Public rallies re-

quire prior government permits, which generally were granted, although exceptions occurred.

Numerous labor, indigenous, and student demonstrations took place in the capital and the outlying regions during the year. In February, the military shot four protesters (one of whom later died) who were participating in a demonstration by indigenous people (*see* Section 5). The military claimed the protesters were armed.

Protesters often blocked roads. In general, the security forces intervened in demonstrations only when there was violence against bystanders or destruction of property.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government did not require religious groups to be licensed or registered unless they engaged in commercial activity.

The majority of the population considered themselves to be Roman Catholic, although many citizens either did not regularly practice the religion or followed a syncretistic version that combines indigenous beliefs with orthodox Catholic doctrine. The Government allowed missionary activity and religious demonstrations by all religions. Religious instruction was permitted in private but not in public schools. There were no restrictions on publishing religious materials in any language.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. Protesters often blocked roads (*see* Section 2.b.). The Government requires all citizens to obtain permission to travel abroad, which was granted routinely. Military and minor applicants must comply with special requirements.

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

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNCHR also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

As of November 30, the Foreign Ministry reported 7,610 applications for refugee status, of which 3,393 were denied, 1,713 granted, and the remainder were pending. During the year, 99 percent of the refugee applicants were Colombians; according to the UNHCR, the majority of displaced Colombians were impoverished peasants fleeing fighting, but some were adolescents escaping forced recruitment by illegal armed groups in the Colombian states of Narino and Caqueta. Asylum seekers whose requests have been approved are eligible to work. A few asylum seekers were deported for working without authorization.

In May, the Government began requiring Colombian refugees to present judicial and police records upon entering the country, which resulted in a temporary sharp decrease in the number of applicants.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In October 2002, a new Congress was elected, and, in November 2002, voters selected Lucio Gutierrez in the second-round presidential election. Election observers from the OAS, the European Union, the NGO Citizen Participation, and other international groups termed the elections peaceful, free, and fair. On January 15, 2003, President Gutierrez assumed office. The President's term is 4 years, and the President may not serve consecutive terms. On October 17, voters elected provincial and municipal officials in elections that the OAS characterized as "free and transparent." On November 9, an opposition effort to create a special congressional commission to impeach the President failed.

Deputies are elected to Congress for 4-year terms. Several parties were represented in the 100-member Congress, and no party dominated. The Social Christian Party had the most seats (26). Three other major parties and six smaller parties also were represented in Congress. The Constitution provides that if a political

party fails to garner a minimum of 5 percent of the votes in two open elections, it must be eliminated from the electoral registry.

There was a widespread public perception of corruption in all areas of the Government. In September, the National Police chief, several other police officials, and members of the army were accused of assisting alien smugglers. The Attorney General was investigating, and no charges have been filed. On November 17, Congress formally censured the Minister of Social Welfare on charges of misuse of public funds. In August 2003, former president Gustavo Noboa fled the country and obtained asylum in the Dominican Republic after a prosecutor filed charges against him related to his renegotiation of debt while President. Although government auditors cleared Noboa of wrongdoing, the charges remained pending at year's end.

In May, the Government enacted the country's first freedom of information legislation, the Transparency and Access to Information Law; however, the law cannot be fully enforced until the President issues regulations for its implementation. The law envisions freedom of information web pages for each government institution and declassifies all government information older than 15 years.

Although no laws prevented women or minorities from attaining leadership positions in government, few women, indigenous persons, or Afro-Ecuadorians occupied such positions. A 1998 law required that at least 30 percent of the candidates for Congress and some local positions in 2000 be women, and that, in each subsequent election, an additional 5 percent of the candidates be women (for example, 40 percent in 2004) until 2008, when 50 percent of the candidates are to be women. During the year's elections, the method used to calculate the percentage of women candidates created some controversy, but the election lists generally appeared to follow the law. There were 17 women in the 100-seat Congress, and there were two women in the cabinet.

The indigenous movement formed the Pachakutik electoral movement and has run candidates for national, provincial, and local office in all elections. Pachakutik had 10 members in Congress and was associated closely with the politically active Confederation of Ecuadorian Indian Nationalities (CONAIE). There is one indigenous member of the cabinet.

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

A number of domestic and international human rights groups operated without restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative with the groups but often did not act on their views. Domestic human rights groups, such as the CEDHU and the regional Latin American Human Rights Association (ALDHU), were outspoken in their criticism of the government's record on specific cases. The Government has contracted with the ALDHU to provide mandatory human rights training to the military and the police.

There is an office of the Ombudsman (Defensor del Pueblo) to focus on human rights problems; however, some observers criticized its lack of independence in practice. Claudio Mueckay has led the office on an acting basis for more than 4 years.

The Gutierrez Government continued to implement various aspects of the National Human Rights Plan, first decreed in 1998, including human rights training for the Congress, seminars, publication of documents, and a contingency plan for refugees. Several prominent human rights NGOs publicly criticized the Government's lack of progress in implementing the plan.

Congress has a seven-member human rights committee. The committee met infrequently, and local human rights organizations did not consider the committee's role particularly significant.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination based on race, sex, or social status. Women, indigenous people, and Afro-Ecuadorians continued to face significant discrimination.

Women.—Although the law prohibits violence against women, including within marriage, abuses were widespread. The Law Against Violence Affecting Women and Children criminalizes spousal abuse, including physical, sexual, and psychological abuse; provides penalties of up to $25 or 7 days in prison; creates family courts; and gives courts the power to remove an abusive spouse from the home. The law also provides legal support to the Government's Women's Bureau in cases of sexual harassment in the workplace.

The Office of Gender, in the Ministry of Government, reported 10,877 cases of sexual, psychological, or physical mistreatment of women for the first half of the year, although the numbers were not complete for all provinces. Women may file complaints against a rapist or an abusive spouse or companion only if they produce a

witness. Some communities have established their own centers for counseling and legal support of abused women. The Government's National Commission on Women (CONAMU) may accept complaints about abuse of women but must refer cases to the prosecutor's office for action. CONAMU had projects in all provinces, focusing primarily on equal opportunities, public policy programs toward women, and lines of credit for women's businesses. CONAMU also offered legal and psychological services to victims of violence in most provinces. In some police stations, social workers employed by city governments or NGOs assisted victims.

Many rapes were not reported due to the victims' reluctance to confront the perpetrators. The penalty for rape is up to 25 years in prison. In cases of statutory rape involving "amorous" sex with a minor, if the rapist marries the victim, the charges against him, or anyone else who took part in the rape, cannot be pursued unless the marriage subsequently is annulled. The penalty for rape where death occurred is 35 years in prison. During the year, 3,083 rapes were reported; 656 persons were charged with rape; and 118 cases were prosecuted.

Prostitution is legal for persons over the age of 14 so long as the businesses are registered with the Government and follow health regulations.

Despite the legal prohibition of harassment, women's rights organizations described sexual harassment in the workplace as common. However, reports of sexual harassment did not appear in the press during the year.

Discrimination against women was pervasive in society, particularly with respect to educational and economic opportunities for those in the lower economic strata. Although women enjoy the same legal status as men, the Office of Gender reported that women often did not receive equal rights in practice. According to the Government, women received 65 percent of the pay received by men for equal work. The women's movement alleged that culture and tradition inhibited achievement of full equality for women. There were fewer women than men employed in professional work and skilled trades, and pay discrimination against women was common.

The Ecuadorian Women's Permanent National Forum included more than 320 women's organizations and promoted social, economic, and cultural change through various methods, including increasing political participation by women. In addition, the National Women's Council provided support for approximately

500 women's organizations, many of which promoted social consciousness and greater participation by women in the political process. The Women's Political Coordinator, an NGO that operated in 22 provinces, promoted similar themes relating to women's rights, with emphases on political participation and human rights. It also focused on young women and Afro Ecuadorian women.

Children.—The Government was committed to children's rights and welfare and has increased funding for child health and education; however, those steps were not fully effective. UNICEF reported that approximately 65 percent of the country's 4.8 million children lived in poverty and that malnutrition affected 15 percent of children under age 5.

The Constitution requires that children achieve "a basic level of education," defined as 9 years of school; however, due to the lack of schools in many rural communities, the Government's failure to provide adequate resources, the economic needs of families, and the comparatively high cost of books and uniforms for poor families, the Government rarely enforced this requirement in practice. The Ministry of Education reported that most children achieved a sixth grade education. The National Statistics Institute reported in 2001 that one out of six citizens between the ages of 13 and 20 had not completed the sixth grade and that 90 percent of school-age children attended school. Education was free through high school. The Constitution provides that 30 percent of the public budget must be devoted to education; however, in practice, only half of that amount was spent, although government spending on education increased by 9 percent during the year. The Government has programs that provided families with educational subsidies as an incentive to keep children in school, which assisted approximately 50,000 children. Boys and girls had equal access to education. In rural areas, many children attended school only sporadically after 10 years of age because they needed to contribute to household income, primarily as farm laborers (*see* Section 6.d.).

The Government provided free medical care to children under 6 years of age. Boys and girls received equal access.

There was no societal pattern of abuse against children.

Commercial sexual exploitation of minors was a problem (*see* Section 5, Trafficking).

More than 20 NGOs promoted child welfare. UNICEF and several private organizations were very active in programs to assist street children. The children of the poor often experienced severe hardships, especially in urban areas.

Trafficking in Persons.—The Constitution prohibits slavery and trafficking in persons in all forms; however, there are no anti-trafficking criminal laws that support the constitutional prohibition, and there were reports that persons were trafficked within, to, from, and through the country. The Code of Children and Adolescents criminalizes the use of violence, abuse, or fraud to coerce a minor into prostitution and the exploitation of a minor's earnings from prostitution, but the Code does not establish penalties. Laws prohibiting alien smuggling and other laws dealing with kidnapping, labor, occupational safety, and slavery apply to and provide some sanctions for trafficking in persons.

On August 18, President Gutierrez appointed the Minister of Government as the country's coordinator of programs to combat trafficking in persons. The National Police Unit for Children (DINAPEN) has responsibility for responding to mistreatment and abuse of minors. The immigration police, a division of the National Police, are charged with combating alien smuggling. On August 5 and October 25, a couple was convicted on four counts of trafficking-related charges of child pornography and rape with sentences of 12 to 25 years.

There was no reliable estimate of the extent of the trafficking problem in the country. A 2002 International Labor Organization (ILO) report estimated that 5,200 minors were engaged in prostitution. During the second half of the year, DINAPEN conducted almost 450 raids on bars, brothels, and nightclubs and rescued 335 children, many of whom were believed to have engaged in prostitution. In past years, trafficking victims from the country had been identified in Spain, Guatemala, Uruguay, Venezuela, Belgium, and the United Kingdom.

The country had a high rate of emigration, with a significant flow bound for illegal entry to the United States and Spain. Illegal emigrants paid between $8,000 and $12,000 per person to criminal organizations to be taken to the United States, usually through Central America. Due to the extreme poverty of most of the emigrants and the high cost of such trips, emigrants were vulnerable to traffickers, and women were susceptible to sexual abuse by smugglers.

Many of the victims of trafficking were child prostitutes trafficked within the country. Some trafficking to Spain may have occurred, but investigations were not conclusive.

On August 18, the President signed a decree establishing a national committee to develop a national plan to fight trafficking, provide social service to victims, and reform the Penal Code to raise the age of a child to someone under 18 and criminalize trafficking in persons. The committee had not met by year's end.

Persons With Disabilities.—The Constitution recognizes the rights of persons with disabilities, and there was no official discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. Although the law mandates access to buildings for persons with disabilities, the Government did not generally enforce it.

National/Racial/Ethnic Minorities.—The population of the rural, northern coastal area included large numbers of Afro-Ecuadorian citizens. They suffered widespread poverty and pervasive discrimination, particularly with regard to educational and economic opportunity. There were no special government efforts to address these problems.

Five major Afro-Ecuadorian organizations were active in the country; the largest was the Afro-Ecuadorian Cultural Center, with headquarters in Quito, which estimated that Afro-Ecuadorians accounted for more than 1.1 million persons, or approximately 9 percent of the total population. While the presence of Afro-Ecuadorians has grown in the fields of sports and culture, their educational opportunities continued to be limited.

The press focused on lingering racism among all strata of society. Afro-Ecuadorian organizations noted that, despite the absence of official discrimination, societal discrimination, including stereotyping, continued to affect them. For example, they asserted that the police stopped Afro-Ecuadorians for document checks more frequently than they stopped other citizens and that underemployment was a large problem, as employers would not interview persons whose job applications carried Afro-Ecuadorian photos.

Indigenous People.—Estimates of those who maintained their indigenous cultural identity and lived in indigenous communities varied between 7 and 20 percent of the total population. The vast majority of indigenous citizens resided in rural areas, including the highlands and the Amazonian provinces. Despite their growing political influence and the efforts of grassroots community groups, which were increasingly successful in pressuring the Government to assist them, indigenous people continued to suffer discrimination at many levels of society. With few exceptions, indigenous people were at the lowest end of the socioeconomic scale.

Land was scarce in the more heavily populated highland areas, where high infant mortality, malnutrition, and epidemic disease were common. Electricity and potable water often were unavailable. Although the rural education system was seriously deficient, many indigenous groups participated with the Ministry of Education in the development of the bilingual education program used in rural public schools.

The Constitution recognizes the rights of indigenous communities to hold property communally, to administer traditional community justice in certain cases, and to be consulted before natural resources are exploited in community territories. Indigenous people also have the same civil and political rights as other citizens. In the Amazon region, indigenous groups lobbied the Government, enlisted the help of foreign and domestic NGOs, and mounted protests, including kidnapping oil workers in past years, in attempts to win a share of oil revenues and a voice in natural resource and development decisions. The Government tended to consult indigenous communities on natural resource matters. Oil companies increased their efforts to minimize the environmental and social impact of their oil projects in the Amazon but faced criticism from indigenous groups that environmental damage continued.

The Ombudsman's office established ombudsman representatives in indigenous communities throughout the country. These had responsibility for promoting human and indigenous rights among indigenous communities and providing specific advisory services to these groups.

On February 1, two unidentified individuals shot at Leonidas Iza, president of CONAIE, the Confederation of Indigenous Nationalities of Ecuador, soon after he returned from Cuba where he attended a meeting against the Free Trade Agreement of the Americas. Iza was not injured, but his son, brother, and nephew received bullet wounds during the attack and the assailants struck Iza's wife, Josefina Aguisaca in the face. Iza and leaders of other indigenous groups described the attack as politically motivated. Police have not arrested anyone in connection with the attacks.

During subsequent demonstrations called by CONAIE, the military shot four protesters, one of which, a 63-year-old woman, Maria Lalbai, later died. The military claimed that the protesters were armed.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and Labor Code provide most workers with the right to form and join trade unions of their choice; however, legal protections of these rights were inadequate, sometimes failing to deter employers from retaliating against workers for organizing.

Approximately 2 to 3 percent of the workforce was organized. Members of the police, the military, and most public sector employees were not free to form trade unions.

The Labor Code sets the number of workers required for an establishment to be unionized at 30, which the ILO's Committee on Freedom of Association considered too stringent a limitation at the plant workers' council level.

Some companies have taken advantage of the law that prohibits unions from organizing at companies that have less than 30 employees by sub-contracting with several shell companies, each of which has less than 30 workers. Under the Labor Code, these subcontracted workers have no legal right to freedom of association or right to bargain collectively with the companies that ultimately benefit from their labor, nor do they have legal protection against anti-union discrimination.

While employees of state-owned organizations enjoyed rights similar to those in the private sector, the law prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. However, most public employees maintained membership in some labor organization.

b. The Right to Organize and Bargain Collectively.—The Labor Code requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests; however, collective bargaining agreements covered only one-quarter of the work force that was organized. Most of the economically active population was employed in the agricultural sector or the urban informal sector; the vast majority of these workers were not organized. The law allows businesses to hire workers on individual contracts.

The Labor Code requires workers in state enterprises to be represented by only one labor union. The law does not require reinstatement of workers fired for anti-union activity but does require compensation and fines. Workers were not protected against anti-union discrimination in hiring under the Labor Code.

Employees also worked on temporary contracts, particularly in the agricultural sector. While the Labor Code establishes a cap of 180 consecutive days for each contract, it does not prohibit the use of consecutive 180-day contracts. Some "temporary" workers may work for the same company (often for different sub-contractors

of the same company) for an extended period under a series of short-term contracts. In practice, it was difficult to organize temporary employees on short-term contracts. Since the Labor Code does not recognize temporary workers, they do not enjoy the same level of protection offered to other workers.

There are few restrictions on the right of workers to strike, although a 10-day cooling-off period is required before a strike can be declared. The Labor Code limits solidarity strikes or boycotts to 3 days, provided that the Labor Ministry approves them. In some industries, during a legal strike, workers may take possession of the factory or workplace (thus ending production at the site) and receive police protection during the takeover. However, in other industries, such as agriculture, the law requires a 20-day waiting period from the day the strike is called. During this time, workers and employers must agree on how many workers are needed to ensure a minimum level of service, and at least 20 percent of the workforce must continue to work in order to provide essential services. The Labor Code provides that "the employer may contract substitute personnel" only when striking workers refuse to send the number of workers to provide the minimum necessary services. The Labor Code prohibits an employer from contracting substitute workers during a strike, although, in practice, this law was not enforced. The employer must pay all salaries and benefits during a legal strike; the Labor Code protects strikers and their leaders from retaliation.

The law does not provide the majority of public workers (those who fall under the Civil Service Law) with the right to strike and includes a provision that striking public sector workers are liable to between 2 and 5 years in prison; however, there were frequent "illegal" strikes, including by public school teachers and health workers. Public workers under the Civil Service Law are not covered by the Labor Code and were prohibited from bargaining collectively.

In August, the Supreme Court upheld a January appeals court decision in favor of more than 50 employees of the public petroleum company, whom the Government had fired for going on strike in June 2003. While several of the workers filed claims for indemnification, some continued to pursue reinstatement.

The law permits the hiring of temporary workers for the maquila (in-bond processing for export) industries. The maquila system allows a company and its property to become an export-processing zone wherever it is located. There were no unions or labor associations in the maquilas. Most workers were hired on temporary contracts by the employer to complete a specific order. Many such zones have been established; most were relatively small and were dedicated to textiles and fish processing.

c. Prohibition of Forced or Compulsory Labor.—The Constitution and the Labor Code prohibit forced or compulsory labor, including by children; however, there were reports that children were trafficked for labor (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws to protect children from exploitation in the workplace and policies regarding acceptable working conditions; however, the Government did not effectively implement these laws and policies in practice, and child labor remained a problem.

The law sets the minimum working age for minors at 15 for all types of labor and the maximum hours a minor may work at 6 hours per day and 5 days per week. The law prohibits minors from working in hazardous conditions, including in mines, with toxic or dangerous substances, or with dangerous machinery. Employers are required to pay minors at least 80 percent of the wages received by adults for the same type of employment. Penalties for violations of the child labor laws include fines of $50 to $300 for parents or guardians and $200 to $1,000 for employers. In cases of repeated infractions, the employer's business can be closed.

The Ministry of Labor and the Minors' Tribunals failed to enforce child labor laws, and child labor was prevalent. The Ministry estimated that there were 300 thousand child laborers; however, a UNICEF study released in March estimated that approximately 756 thousand children worked full-time, 39 percent of whom did not attend school. UNICEF estimated that 44 percent of these children began working between ages 10 and 14 and that 70 percent did not reach secondary school.

More than 40 percent of all children lived in rural areas, and many left school at an early age to do unpaid agricultural work for their families.

A report completed by the ILO in 2002 estimated that there were 5,200 minors engaged in prostitution (*see* Section 5).

In July, the Ministry of Labor created a three-officer Division for Child Labor, which meets monthly with the Ministry of Labor and the National Committee for the Progressive Eradication of Child Labor, which includes government agencies, business, and labor organizations. The Division of Child Labor planned and implemented the national system of child labor inspections. It created and broadcast two

television spots to raise awareness of child labor issues. It also played a key role in forming the Banana Social Forum in Guayaquil, which brings together various sectors including business, labor, and NGOs to find solutions to the child labor issue. In addition, it held workshops among the flower business community to raise awareness of child labor issues.

In 2003, the Ministry of Labor, working with UNICEF, began a program of systematic child labor inspections of banana and flower plantations. As of December, the Ministry of Labor employed 16 child labor inspectors. The Ministry of Labor stated that child labor inspectors conducted 800 inspections, 10 of which resulted in fines. It found 120 children under age 15 and 780 adolescents age 15–18 working. The Ministry worked to regulate the employment of the adolescents found. On some occasions, large banana plantations reportedly fired child workers when they received notice that labor inspectors were arriving.

The Ministry of Labor designated a "Social Service Directorate" to monitor and control child labor in businesses such as factories; however, enforcement in most sectors of the economy remained limited. In urban areas, many children under age 15 worked in family-owned businesses in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. Other children were employed in commerce, messenger services, domestic services, and begging. Children as young as 5 or 6 years often sold newspapers or candy on the street to support themselves or to augment family income.

The Government, through the National Children's and Family Institute, spent approximately $3.5 million per year on the Program for the Schooling and Protection of Child Workers. The Child Worker Program run by the Central Bank with a fund of $275,600, supplemented by private support, developed a workshop program in five cities to work with families and schools on the issue of child labor; the Program also administered a $40 thousand scholarship program for child laborers.

e. Acceptable Conditions of Work.—The Ministry of Labor periodically sets the minimum wage in consultation with the Commission on Salaries, but Congress also may adjust the minimum wage. As of December, the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately $166, or $0.95 per hour, in the case of contract workers. The statutory minimum wage did not provide a decent standard of living for a worker and family. Most organized workers in state industries and formal sector private enterprises earned substantially more than the minimum wage and also received other significant benefits through collective bargaining agreements. However, the majority of workers worked in the large informal and rural sector without recourse to the minimum wage or to legally mandated benefits.

The Labor Code provides for a 40-hour workweek, a 15-day annual vacation, a minimum wage, and other employer-provided benefits, such as uniforms and training opportunities. Employers are required to give workers 2 consecutive days of rest per week. If required to work beyond the standard work week, workers must be paid overtime. A higher overtime rate is set for working at night. The Ministry of Labor did not deploy sufficient resources to enforce labor laws.

The Labor Code also provides general protection for workers' health and safety on the job. However, a worker may not leave the workplace for health reasons, even if there is a hazardous situation. A worker is allowed to request that an inspector from the Ministry of Labor come to the workplace and confirm the hazard; that inspector then may close down the workplace. Response time for inspectors ranged from a few days in major cities to much longer in the countryside.

The Social Security Institute enforces health and safety standards and regulations. In the formal sector, occupational health and safety was not a significant problem. However, there were no specific regulations governing health and safety standards in the agricultural sector, and, in practice, there was no enforcement of safety rules in the small mines that make up the vast majority of the mining sector.

EL SALVADOR

El Salvador is a constitutional, multiparty democracy with a unicameral legislature, an independent judiciary, and an executive branch headed by a president. In March, voters elected as president Elias Antonio Saca of the Nationalist Republican Alliance (ARENA) to a 5-year term. International election observers reported that the presidential election was generally free and fair, without violence or notable irregularities. The judiciary is constitutionally independent; however, many judges were still susceptible to political and outside influence.

The National Civilian Police (PNC) maintains public security; the Ministry of Defense is responsible for national security. The military provides support for some PNC patrols in rural areas and also provides support to the law enforcement agencies for specific activities such as a new antigang program, antinarcotics efforts, and reform-school training for juvenile convicts. A law passed in July created a Rural Police Department to coordinate and evaluate strategies and plans for rural areas of the country. Civilian authorities maintained effective control of the security forces. Some members of the police committed human rights abuses.

The country has a market-based economy focused on services and light manufacturing, while simultaneously opening its markets. The country's population is over 6.9 million. Remittances from abroad are the largest single source of foreign income, equivalent to approximately 15 percent of GDP, and they continue to grow in value. Agriculture remained the largest source of employment. Coffee and sugar are the principal export crops. The rate of real economic growth changed little during the year and was estimated at 1.8 percent, with inflation at 5.4 percent. According to the Ministry of Economy's statistics and census office, in 2003 approximately 36.1 percent of the population lived below the poverty level, compared with 38.8 percent in 2002.

The Government generally respected the human rights of its citizens; however, there were significant problems in some areas. There were no politically motivated killings during the year; however, courts dropped charges from some 2003 cases. Some police officers used excessive force and mistreated detainees; at times police arbitrarily arrested and detained persons without adequate cause. Prison conditions remained poor, and overcrowding was a continuing problem. During the year, the Government took steps to improve prison conditions. Lengthy pretrial detention remained a problem. The judiciary remained generally inefficient and hampered by corruption, although the Supreme Court and the Attorney General's office (AG) took some steps during the year to address both inefficiency and corruption. Impunity for the rich and powerful remained a problem, as did violence and discrimination against women. Abuse of children, child labor, forced child prostitution, and trafficking in women and children remained problems, as did discrimination against disabled persons. The Government took steps to provide adequate protection of workers rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, security forces killed 29 persons. At year's end, authorities were adjudicating whether police officers had acted criminally or in the line of duty.

The Office of the Human Rights Ombudsman (PDDH) received one complaint of attempted and/or completed unlawful killings by police during the year.

In June, in San Jose Villanueva PNC officers Neftaly Osmin Soriano and Santos Claudio shot and killed Carlos Aldredo Paniagua Martinez during a scuffle with 15 persons. According to witnesses, the officers shot Paniagua Martinez three times at point-blank range as he assaulted them. The initial hearing took place in October. In December, a judge dismissed the charges against the PNC officers.

In January, a court acquitted gang member Francisco Zarceno Rodriguez, but convicted nine other persons in the 2003 death of Alvaro Centeno Calvio in Ahuachapan during the legislative and municipal election campaign. Carlos Alexander Sanchez Andino and Jose Geovani Galeano Portillo were each sentenced to 30 years in prison for the murder of Centeno.

On November 5, gunmen shot and killed foreign labor activist Jose Gilberto Soto in Usulutan. Six persons, including Soto's mother-in-law, were charged in the killing.

There was no information available from government sources regarding the trial of persons for the 2002 shooting death of Darwin Lopez.

As of October, the AG had not reported any new developments and none were expected in the 2002 killing of Nelson Alfonso Amaya Argueta, president of the National Federation of Demobilized Members of the Civil War Era Militia.

On August 27, the Criminal Chamber of the Supreme Court upheld the decision of a lower criminal court that the 2001 beating and killing of cadet Erick Mauricio Pena Carmona was first-degree murder. Air Force flight school cadets Carlos Mauricio Melara and Cesar Humberto Dorat were sentenced to 10 years' imprisonment and $5,714 in punitive damages. According to the Human Rights Institute of the University of Central America (IDHUCA), this was the first instance in which a court found the armed forces responsible for Pena Carmona's death. In September,

the IDHUCA presented the case before the Criminal Chamber of the Supreme Court and in November, they presented the case to the Inter-American Commission on Human Rights.

In September, the Catholic Church called for the Government to reopen the investigation into the 1980 killing of Archbishop Oscar Romero.

Transvestites were targeted and several were killed during the year (*see* Section 5).

b. Disappearance.—There were no reports of politically motivated disappearances or of police involvement in kidnappings during the year.

Most disappearances were kidnappings for ransom. According to police statistics, eight persons were kidnapped during the year, the same number as in 2003.

Since its inception, the Association for the Search for Children Who Disappeared as a Result of the Armed Conflict (Pro-Busqueda) has investigated 250 cases (out of 712) and organized 156 family reunification meetings between children who disappeared during the armed conflict and their biological parents. Children have been located in El Salvador, the United States, France, and Italy. In August, Pro-Busqueda met with the Family Committee of the Legislative Assembly to lobby for a bill to create a national commission to investigate the cases of children missing since the 1980–92 civil war. In May, the U.N. Committee for Children's Rights urged the Government to create a national commission.

On October 5, the President passed an executive decree to create, for a 4-year period, the Salvadoran Inter-Agency Committee for the Search for Children Who Disappeared as a Result of the Armed Conflict. The Committee is composed of representatives from the Ministry of Foreign Affairs, the Ministry of Governance, the Ministry of Defense, the PNC, the Salvadoran Institute for Children and Adolescents (ISNA), the Solicitor's office, and the Attorney General. During the year, the committee developed its internal organization and regulations, and met with representatives of Pro-Busqueda, who announced plans to join the Committee.

In September, the PDDH found that the 1982 disappearance of sisters Ernestina and Erlinda Serrano Cruz in San Antonio de la Cruz, Chalatenango during an armed forces operation occurred in an area where many civilian casualties resulted from fighting between government forces and guerrillas, and that in its investigation of the case, prosecutors, judges, and the Supreme Court had denied justice to the Serrano family. In June 2003, Pro-Busqueda presented the sisters' case to the Inter-American Court of Human Rights. In December, the Court resolved legal issues relating to statutes of limitation; a final sentence will be announced in 2005.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices. During the year, the PDDH received one complaint alleging torture by police officers. There were allegations that some members of the PNC used excessive force or otherwise mistreated detainees.

During the year, the Inspector General (PNC/IG) received a total of 152 complaints for police negligence, 165 complaints for crimes allegedly perpetrated by police agents, 721 complaints regarding inadequate police procedures, 100 complaints for violations of human dignity, and 116 complaints for violation of freedom of transit.

During the year, the PDDH resolved a total of 104 complaints against the PNC for all categories of human rights violations. It found PNC officers responsible for violations in 91 cases and absent of responsibility in 9 cases; a settlement was negotiated in 1 case, and the PDDH made recommendations in 3 cases. Of all complaints resolved, 15 of 33 were for PNC violations of the right of personal integrity. During the year, the IG received 548 petitions to investigate cases of alleged personal integrity violations. Human rights awareness is a standard component of police officers' basic training.

In July, street vendors in downtown San Salvador rioted in response to enforcement of a municipal decree limiting the locations of their stalls. The vendors attacked Municipal Police (CAM) officers, who responded with rubber bullets. According to the AG, CAM officers threatened Red Cross workers. FESPAD, a legal nongovernmental organization (NGO), criticized the role of the municipal police and stated that they had used excessive force in quelling the riot. Passing commuter Melvin Guadalupe died from a stray bullet, the source of which remained under investigation at year's end.

In October, the Administrative Dispute Chamber of the Supreme Court ordered the payment of indemnifications totaling more than $600,000 to PNC officers who were dismissed illegally through an expedited procedure for combating corruption known as Decree 101. Additionally, the Court ordered the reinstatement of Mauricio Arriaza Chicas, who was accused of collecting fraudulent evidence.

Prison conditions remained poor. Overcrowding constituted a serious threat to prisoners' health and lives. In May, prisoners at the Santa Ana Penitentiary went briefly on a hunger strike to protest limits on women visitors' access to prisoners. The director of the Santa Ana Penitentiary stated that the security measures were necessary to prevent women from smuggling drugs into the prison. In September, 65 prisoners in the Metapan Penitentiary, in the country's northwestern zone, suffered food poisoning. Overcrowding in individual facilities continued as the prison population increased for the fourth consecutive year. At year's end, 12,073 prisoners were held in 24 prison facilities with a combined design capacity of 7,312, and there were 31 men and 9 women in 2 secure hospital wards with a combined design capacity of 75 persons. During 2003, the prison authorities instituted a new system to reward prisoners who exhibited good behavior and fulfilled all legal requirements with weekend ambulatory privileges. On the other hand, those prisoners who displayed dangerous or violent behavior were restricted to maximum security. In August 2003, the authorities inaugurated a maximum security prison with a capacity of 400.

A private contractor provides prisoners' food based on professional dieticians' recommendations; clinics in each prison provide medical care.

Gangs continued to exercise influence within the prisons and judicial system, and prisoners reportedly continued to run criminal activities from their cells. In May, the Director of Prisons found that members of the Mara Salvatrucha gang supervised criminal activity while incarcerated. Additionally, the Director discovered that gangs encouraged criminal activity by children to take advantage of lower maximum sentences for persons under the age of 18.

Prison authorities reported that there were 59 deaths from violence and natural causes in the prison system during the year. On August 18, a riot between gang members and nongang members at the La Esperanza Penitentiary, better known as "Mariona" prison, left 31 prisoners dead and 28 injured. In September, Director of Prisons Rodolfo Garay Pineda transferred all Mara Salvatrucha gang members to the Quezaltepeque and Ciudad Barrios prisons and all Mara 18 gang members to Chalatenango and Cojutepeque. In the wake of the riot, the Government initiated a public dialogue on prisons among judges, prosecutors, human rights NGOs, and others; new procedures were subsequently implemented to better segregate hardened violent offenders from other prisoners. In November, Prisons Director Garay Pineda resigned; Mariona Prison Warden Jose Antonio Guzman Blanco was indicted in December for negligence in preventing and reporting drug trafficking at the facility.

Women prisoners are incarcerated separately from men at an all-women's facility. The law requires that all juveniles be held separately from adults, both prior to trial and while serving a prison sentence, and the Government generally observed this requirement in practice. At year's end, 363 minors were housed in a juvenile prison under the supervision of the ISNA. Gang violence in juvenile holding facilities was a problem. Members of the armed forces provided reform school training for juvenile convicts. Most criminal cases involving juveniles were brought to trial or conciliation proceedings within 3 months.

Because of a lack of holding cells, pretrial detainees were often sent to regular prisons, where they could be placed together with violent criminals.

The Government permitted prison visits by independent human rights observers, NGOs, and the media, who in practice monitored prison conditions during the year.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, there were complaints that at times the PNC arbitrarily arrested and detained persons. The IG received 495 petitions alleging arbitrary arrest and detention during the year.

The PNC maintains public security; the Ministry of Defense is responsible for national security. The military provides support for some PNC patrols in rural areas and also provides support to the law enforcement agencies for specific activities, including antinarcotics efforts and reform-school training for juvenile convicts. In September, the Government created the AntiGang Task Force with a total of 333 military personnel to be deployed in high crime areas.

There were charges that PNC officers were involved in criminal activities. For example, in 2003, the authorities arrested 27 PNC officers on alien smuggling charges and fraud. Only 7 of the 27 officers could be apprehended when an appeals court revoked the decision; the remainder had fled. In September, the authorities captured the last officer at large, Carlos Alberto Salmeron Mejia, considered a key element in the perpetration of the crimes. A lower court dismissed the charges against the PNC officers, but an appeals court revoked that decision. In November, a court dismissed charges against National Judicial Branch Security Chief Carlos Adolfo

Flores Hernandez, Security Supervisor Gerbert Heriberto Munoz Chicas, and Judicial Protection Agent Fredy Alvarado on charges of facilitating the escape of 14 members of an organized crime group named Banda Tacoma, which operated in Guatemala, Belize, and El Salvador, perpetrating homicides, kidnappings, bank robberies, and other crimes.

During the year, the PDDH received 30 complaints alleging violations of personal liberty, compared with 778 complaints in 2003 and 205 in 2002. The courts generally enforced a ruling that interrogation without the presence of counsel is coercion, and that any evidence obtained in such a manner is inadmissible. As a result, police authorities generally delayed questioning until a public defender or an attorney arrived.

The Constitution requires a written warrant for arrest, except in cases where an individual is arrested in commission of a crime. The law provides that a detainee has the right to a prompt judicial determination of the legality of the detention, and authorities generally respected this right in practice. In general, detainees were promptly informed of charges against them. The Penal Code permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. Because it may take several years for a case to come to trial, some prisoners have been incarcerated longer than the maximum legal sentence for their crimes. In such circumstances, a detainee may request a review by the Supreme Court of his or her continued detention.

Generally, criminal detainees have prompt access to counsel of their own choosing or to an attorney provided by the state.

Criminal detainees may be visited by family members.

The law permits the police to hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. Because of a lack of holding cells, such detainees often were sent to regular prisons, where they could be placed together with violent criminals (*see* Section 1.c.). The law permits a judge to take up to 6 months to investigate serious crimes before requiring either a trial or dismissal of the case. In exceptionally complicated cases, the prosecutor or either party may ask the appeals court to extend the deadline for 3 to 6 months, depending on the seriousness of the crime. However, many cases were not completed within the legally prescribed time frame. The Penitentiary Directorate reported that 4,247 inmates were in pretrial detention at year's end, compared to 4,514 in 2003 (*see* Section 1.c.). According to the Supreme Court, during the year the judicial system received an average of 22.8 criminal cases per day, compared with an average of 19 per day in 2003.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. However, the judiciary suffered from inefficiency and corruption. During the year, the SCJ took some steps to address these problems.

Impunity from the country's civil and criminal laws continued, particularly for persons who were politically, economically, or institutionally well connected. Corruption in the judicial system contributed to impunity.

In October, a court released from house arrest Nelson Garcia, former President of the Salvadoran Bar Association and 2003 candidate for the Supreme Court. Garcia was accused of child pornography and abuse after hundreds of pornographic videos were found in his house. After 8 months, the authorities apprehended Garcia and put him under house arrest rather than jailing him. A judge later released Garcia due to legal technicalities; women's organizations, including CEMUJER and DIGNAS, condemned the decision. In November, the AG announced that he could not find legal grounds with which to appeal Garcia's release.

In August, research by the Evangelical University of El Salvador concluded that the judicial system was susceptible to political and economic influence.

In March, criminal court legal clerk Gracilea Roque was charged with providing confidential judicial information to the attorney of defendant Raul Garcia Prieto, who was under house arrest following his indictment for bank fraud. According to investigators, on learning that the judge in the case had drafted a sentence directing that Garcia Prieto be incarcerated, Roque advised Garcia Prieto's attorney, facilitating the defendant's flight from justice. The Supreme Court ordered the dismissal of the judges that had granted house arrest to Garcia Prieto but reinstated them in July. The Supreme Court also ordered the prosecution of Roque, but a criminal court released her in October due to lack of evidence.

In July, a judge exceeded her authority by ordering that Fernando Palacios Luna, accused of kidnapping and organized crime, be transferred from a maximum to a medium security prison. By law, only the Criminal Council, a multidisciplinary

group attached to the Ministry of Governance, can grant prison transfers. The Director of Prisons refused to transfer Palacios Luna to a common prison. However, in August, an appellate court upheld the judge's decision.

The court structure has four levels: Justices of the peace, trial courts, appellate courts, and the Supreme Court. The Supreme Court oversees the budget and administration of the entire court system and selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judicial Council (CNJ). The CNJ is an independent body provided for in the Constitution to nominate, train, and evaluate justices. The Legislative Assembly elects, by a two-thirds majority, Supreme Court magistrates from lists provided by the CNJ and the National Association of Lawyers. In September, the CNJ denounced the Supreme Court for not respecting the law and illegally designating a magistrate of a family court in San Miguel.

In September, the President of the CNJ proposed that the judicial branch be reconfigured to address the disparity in workloads among the various courts in the country.

Magistrates serve for periods of 9 years and may be reelected. There are separate court systems for family matters and juvenile offenders; they stress conciliation as an alternative to adjudication. The system also has criminal sentencing courts and penitentiary oversight courts. The former consider the evidence and testimony that have been gathered throughout the trial proceedings, judge innocence or guilt, and determine sentences. The latter monitor the implementation of sentences.

Through its Department of Judicial Investigation, the Supreme Court regularly receives and investigates public complaints about judicial performance. This department also reviews the findings and recommendations of the CNJ, which evaluates justices on an ongoing basis. The Supreme Court imposes penalties when warranted. As of September, the Judicial Investigation Section of the Supreme Court had received 152 petitions. It investigated 19 cases and sanctioned judges in 3 cases. During January and June 2003, the National Judiciary Council evaluated 645 judges and magistrates, and recommended sanctions against 47 judges, mostly for violations of due process.

NGOs and knowledgeable observers claimed that the Supreme Court did not respond adequately to public criticism, and did not make a comprehensive effort to remove unqualified and corrupt judges. The Supreme Court emphasized that its Department of Judicial Investigation and the CNJ performed that function by scrutinizing judicial performance on an ongoing basis.

In practice, the Court imposed few sanctions upon judges based upon the recommendations from the CNJ and the Department of Judicial Investigation.

In May, legal clerks of a Santa Ana Court asked the Supreme Court, to the dismissal of a Justice of the Peace for violating labor standards and legal procedure. They alleged that the Justice of the Peace forced them to substitute for him at hearings without appropriate authorization, a violation of constitutional rights and due process. In addition, the Justice of the Peace compelled his staff to work extra hours at his residence. At year's end, the case remained under investigation by the Supreme Court's Judicial Investigation Unit.

As of September, the Supreme Court was investigating more than 300 cases of irregular law diplomas. In May, the Supreme Court reconfirmed the dismissal of one sentencing judge for having an irregular law diploma. The Ministry of Education presented a list of 199 lawyers, including the sentencing judge, who did not fulfill the legal or administrative requirements to obtain a law diploma.

Judges rather than juries decide most cases, although juries are used in particular phases of the prosecution. Most cases start with a preliminary hearing by a Justice of the Peace court, then proceed to the trial court, which determines if there is enough evidence to continue the prosecution, and whether a jury or a sentencing court should hear the case. Juries hear only those cases that the law does not assign to sentencing courts. After the jury's determination of innocence or guilt, a tribunal decides the sentence. A jury verdict cannot be appealed; however, a judge's verdict may be appealed.

The Juvenile Legal Code requires that minors from 12 to 17 years of age be tried only in juvenile courts, limits sentences for minors to a maximum of 7 years, and includes alternatives to incarceration. In July, the Legislative Assembly modified the Criminal Code, Criminal Procedure Code, Juvenile's Offender Law, and Penitentiary Law in response to an April Supreme Court decision that the October 2003 antigang law was unconstitutional. Penalties were increased for conspiracy cases, and the maximum period allowed to investigate a crime when the defendant is a minor was reduced to 60 days. When a child is arrested, police must inform the child's parents or guardians, the solicitor's office, the Attorney General, and the PDDH.

The Constitution provides for the presumption of innocence, protection from self-incrimination, legal counsel, freedom from coercion, and compensation for damages due to judicial error. In practice, compensation for damages due to judicial error was seldom applied. Defendants also have the right to be present in court. These rights were not always respected fully in practice. The Constitution and law require the Government to provide legal counsel for the indigent; however, this requirement also was not always implemented in practice.

In June, a 7-year-old girl in Ahuachapan testified in the case of her own rape while the alleged perpetrators were present in the courtroom. The AG had failed to request that the court excuse her from testifying in their presence, a standard procedure to protect a child from being compelled to offer testimony under such circumstances. The court released the defendants for lack of evidence, which the AG appealed to the Supreme Court. The Judicial Investigations Unit of the Supreme Court denied the appeal and declined to sanction the judges involved in the case.

Police, prosecutors, public defenders, and the courts continued to have problems with criminal investigations. Inadequate police coverage (due to limited resources) and intimidation of victims and witnesses (especially by gangs) made it difficult to identify, arrest, and prosecute criminals, thus diminishing public confidence in the justice system.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Print and broadcast journalists from all major media outlets regularly and freely criticized the Government and reported opposition views. Opposition figures were interviewed routinely in the press and on television and radio.

There are 5 daily newspapers, with a combined daily circulation of more than 250,000, and 16 television stations. Five independent and one government-owned and operated VHF television stations reach most areas of the country, and eight independent UHF stations serve San Salvador. Approximately 150 licensed radio stations broadcast on the FM and AM bands.

According to practitioners and observers, some newspaper editors and radio news directors practiced self-censorship by discouraging journalists from reporting on topics or presenting views that the owners or publishers might not view favorably.

In April, Social Security (ISSS) workers attacked journalists with stones and burned media vehicles during a demonstration against the Government's dismissal of ISSS workers. The Salvadoran Radio Association and the Ombudsman for Human Rights Office condemned the ISSS workers' actions (*see* Section 6.a.).

On October 22, San Salvador's Third Court sentenced political activist and director of the NGO Liberty Foundation Rafael Menjivar to 3 years in prison for slander in television and radio spots during the lead-up to the March 21 presidential election that outlined FMLN presidential candidate Schafik Handal's alleged participation in kidnappings and murders during the country's 1980–1992 civil war. The sentence was commuted to monitored house arrest, public retractions by Menjivar of his statements, and probation. In November, related charges were dropped against television journalist Moises Urbina, who had discussed Menjivar's case on the air.

At year's end, reforms to Article 187 urged by October 2003 General Assembly of the Inter-American Press Society had not been passed.

The new Legislative Assembly did not reconsider the 2003 bill presented by the NGO Human Rights for the Americas and APES before the previous Assembly to strengthen freedom of speech in accordance with international law.

In 2002, the Inter-American Press Association (IAPA) identified freedom of press problems in several areas, including the absence of laws protecting journalists' right to maintain the confidentiality of sources. In October 2003, the IAPA reported that both political and government organizations blocked journalists from having access to information of public interest.

A provision in the Criminal Code allows judges to close court proceedings if public exposure could prejudice the case. The media and the IAPA have claimed that the provision abridges press freedom.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

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

rights in practice. Some NGOs asserted that the Ministry of Governance delayed approval of legal status for controversial NGOs with human rights or political agendas.

In October, the Ministry of Governance denied legal status to "En Nombre de la Rosa," a homosexual and transvestite association. The association presented a constitutional petition before the Supreme Court of Justice, that was ongoing at year's end.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution specifically recognizes the Roman Catholic Church and grants it legal status. In addition, the Constitution provides that other churches may register for such status in accordance with the law.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government observed this prohibition.

The law provides for the granting of refugee status or asylum in accordance with the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention's 1967 Protocol.

During the year, the Government granted refugee status to 24 Colombians.

In August, the UNHCR liaison officer publicly complained about the Government's attitude toward dozens of Nicaraguans who had moved to the country during the 1980s, but who had never completed application procedures for refugee status.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The president and vice president are elected every 5 years by secret ballot. The Constitution bars the president from election to consecutive terms.

Three political parties and a two-party coalition fielded presidential candidates in the March presidential election, which witnessed an unprecedented voter turnout of 63 percent. Most observers reported that the election was free and fair, with few irregularities. Voters elected, with 58 percent of the vote, ARENA party candidate Elias Antonio "Tony" Saca. Under the law, parties that receive less than 3 percent of the vote (less than 6 percent in the case of a two-party coalition) must be dissolved; however, a December Supreme Court ruling rescinded the ordered dissolution of the Party of National Conciliation and Christian Democratic Party. An October final report on the March election by the OAS praised the new Sole Identity Document (DUI), and encouraged the Government to institute residential voting procedures.

In 2002, the Supreme Court ruled that an article of the electoral code that assigned a specific number of legislators to each department of the country violated the constitutional requirement for representation proportional to the population. One day before the Court announced its decision, the Legislative Assembly modified the law by allocating the number of legislators based on ranges of population. During the year, there were new efforts to amend election law in keeping with this ruling.

Corruption in the executive and legislative branches was a problem.

In an August poll published by the University of Central America's Public Opinion Institute (IUDOP) respondents defined corruption not only as a government official's use of public office for personal gain but also as gang violence, common crime, sexual harassment, and other phenomena. Respondents placed most trust in the PNC to fight corruption while identifying the Comptroller's Office and the courts as the government organizations most subject to corruption.

Laws provide for public access to government information; however, in practice, government budget figures and information involving investigations by the Comptroller's Office are difficult to obtain.

There are no laws or overt practices that prevent women from voting or participating in the political and governmental systems. The country's Vice President is a woman. Nine of 84 legislators were women, with 22 women serving as elected alternate legislators. Two members of the six-person Board of Directors of the Legislative Assembly were women. In the Judicial Branch, 2 out of 15 Supreme Court justices were women. Of the 13 executive branch ministries, 3 constitutionally independent agencies, and 4 special presidential commissioners, 6 were women. Women held a substantial number of vice- and sub-ministerial jobs. An estimated 40 percent of the country's judges were female; however, the majority held positions in the lower-level courts.

No one who identifies himself or herself as a member of a minority held a leadership position in the Government or the Legislative Assembly.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. However, it was sometimes reluctant to discuss worker rights issues with NGOs, and it refused to discuss the topic with the PDDH. Domestic and international NGOs are required to register with the Government, and some reported difficulties (*see* Section 2.b.). However, in January, the Government granted legal status to the Independent Monitoring Group of El Salvador, an NGO that monitors labor standards in the maquila sector.

Prior to the March presidential election, immigration authorities at the international airport at Comalapa detained on arrival several international election observers (and other travelers mistaken for observers). Their detention was apparently a result of the Ministry of Governance's interpretation of the Constitution, which specifically prohibits foreigners from participating in the country's internal politics. The detained individuals were released after 1 day and allowed free access to observe the election.

The principal human rights investigative and monitoring body is the PDDH, who is elected by the Assembly for a 3-year term. The Peace Accords specifically created the PDDH, which was established formally by an amendment to the Constitution that defined its role. In June, the Legislative Assembly re-elected the incumbent Ombudsman, attorney Beatrice Carrillo, for an additional 3-year term.

During the year, the PDDH accepted 634 complaints of human rights violations, compared with 2,479 in 2003 (*see* Sections 1.a. and 1.c). The rights most frequently alleged to have been violated included personal integrity, due process, and labor laws. During the year, the PDDH issued 296 resolutions involving 345 complaints filed during the year and previous years. Some of the resolutions addressed multiple complaints with similar characteristics, such as mistreatment by police. The PDDH upheld charges in 190 resolutions, found the accused not to have been responsible in 59 resolutions, resolved 29 cases using its good offices, verified fulfillment of recommendations in 6 cases received during the year, and issued recommendations in 12 cases. In the remaining cases received during the year, the PDDH had not determined whether the facts substantiated the allegations.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution states that all persons are equal before the law and prohibits discrimination based on nationality, race, or sex. In practice, discrimination against women, persons with disabilities, and indigenous people occurred in salaries and hiring. There were some instances of violence against homosexuals.

Women.—Violence against women, including domestic violence, was a widespread and serious problem. The law prohibits domestic violence and provides for sentences ranging from 6 months to 1 year in prison. Convicted offenders are prohibited from using alcohol or drugs and from carrying guns. The law also allows the imposition of restraining orders against offenders. Once a taboo social subject, domestic violence increasingly was recognized publicly and has become a topic for national debate. Government institutions such as the PDDH, the AG's office, the CSJ, the Public Defender's office, and the PNC coordinated efforts with NGOs and other organizations to combat violence against women through education, government efforts to increase enforcement of the law, and NGO support programs for victims. The National Secretariat for the Family, through the Salvadoran Institute for the Development of Women (ISDEMU), defined policies, programs, and projects on domestic vio-

lence and maintained a hotline and a shelter for victims of domestic abuse. In August, legislation was passed authorizing judges to allow NGOs to assist victims of domestic violence.

At year's end, ISDEMU had received 4,329 complaints of domestic violence, compared with 4,609 complaints in 2003. The Appellate Family Courts received 25 cases of domestic violence from January through July. Incidents of domestic violence and rape continued to be underreported for several reasons: Societal and cultural pressures against the victim, a fear of reprisal, poor response to victims by the authorities, fear of publicity, and the belief that cases were unlikely to be resolved. In August, the women's NGOs Cemujer, IMU, and AMS conducted a public awareness campaign on violence against women. During this campaign, they revealed that 56.4 percent of the population thought it normal for a man to hit a woman.

In 2003, the decapitated bodies and severed heads of two young women were found at separate locations; the murders fit the pattern of Central American gang ritual slayings. No suspects had been charged at year's end.

The Criminal Code permits the AG to prosecute in the case of a rape, with or without a complaint from the victim, and a victim's pardon may not nullify the criminal charge. The penalties for rape are 6–10 years in prison. The law does not address specifically spousal rape; however, it may be considered a crime if the actions meet the Criminal Code's definition of rape. According to PNC reports, gangs raped 26 women during the year.

The law does not prohibit a person from working as a prostitute; however, it prohibits any person from inducing, facilitating, promoting, or giving incentives to a person to work as a prostitute. Prostitution was common, and there were credible reports that some women and girls were forced into prostitution (*see* Section 6.c.).

Trafficking in women and girls for purposes of sexual exploitation was a problem (*see* Section 5, Trafficking).

The law prohibits sexual harassment and stipulates penalties of 3 to 5 years for those convicted of harassment, or 4 to 8 years in cases where the victim was a minor under the age of 15. Fines are added to the prison term in cases where the perpetrator is in a position of authority or trust over the victim. In October, the AG presented charges of sexual harassment against a regional PNC Deputy Commissioner Wilfredo Avelanda. Four women filed charges against Avelanda; the PDDH has registered four additional cases against Avelanda in the past.

Some factories in the EPZs required female job applicants to present pregnancy test results, and they did not hire pregnant women (*see* Section 6.b.).

The Constitution grants women and men the same legal rights, and the Penal Code establishes sentences of 1 to 3 years in jail for public officials who deny a person's civil rights based on gender. The law prohibits pregnant women from performing strenuous activities in the workplace after the fourth month of pregnancy (*see* Section 6.e.). All women are entitled to 84 days of maternity leave.

Women suffered from cultural and societal discrimination and had reduced economic opportunities; men often received priority in available jobs and promotions. In particular, women were not accorded equal respect or stature in traditional male-dominated sectors such as agriculture and business. A 2002 U.N. Development Program (UNDP) study reported a literacy rate of 79 percent for women and 85 percent for men. One of the factors that contributed to girls leaving school was teenage pregnancy. According to the Health Minister, 18,574 girls ages 10 to 19 years were pregnant as of October.

The Penal Code establishes a sentence of 6 months to 2 years for employers who discriminate against women in labor relations; however, it was difficult for employees to report such violations because they feared reprisals. In February, the Legislative Assembly criminalized the practice, common in financial and commercial sectors, of asking a woman to take a pregnancy test before hiring her. A 2003 UNDP study showed that women earn on average $3,350 per year, compared with $7,381 for men. The one sector in which there was an exception to this practice was in the EPZs and maquilas, the largest source of new jobs, where women made up 85 to 90 percent of the workforce (*see* Section 6.b.). However, even in this sector, men held the majority of positions in management and in departments where employees received higher wages, such as cutting and ironing. Training for women generally was confined to low-wage occupational areas where women already held most positions in fields such as teaching, nursing, home industries, and small businesses. According to the same UNDP study, women held 25.7 percent of higher-level positions and 19.7 percent of municipal seats.

Women's organizations such as CEMUJER, Las Dignas, and the Melida Anaya Montes Movement were engaged in promoting women's rights and conducted several rights-awareness campaigns during the year.

Children.—The Government worked through state institutions and with UNICEF to promote protection and general awareness of children's rights; however, children continued to be victimized by physical and sexual abuse, abandonment, exploitation, and neglect. The ISNA, an autonomous entity, has responsibility for protecting and promoting children's rights.

Education is compulsory through the ninth grade and nominally free through high school. On average, children in the country attend school through 5.5 grades. The Constitution prohibits persons from impeding children's access to school for failure to pay fees or wear uniforms. In practice, some schools continued to charge students fees to cover budget shortfalls, and the inability to pay these fees or pay for required books, uniforms, and activities prevented some poor children from attending school. In 2003, the Legislative Assembly modified the law so that schools are prohibited from charging students any fees. The Ministry of Education continued to operate a hotline for the public to report school administrators who violated these laws. As of August, the Ministry had received 895 complaints of illegal school fees. Rural areas fell short of providing a ninth grade education to all potential students, in part because of a lack of resources and in part because many rural parents often withdrew their children from school by the sixth grade to work.

Infant malnutrition continued to be a problem, particularly in the coffee-producing zones of Ahuachapan and Sonsonate. During the year, the Government implemented a national plan for infants designed to increase access to potable water, iodized salt, and micronutrients and encourage breast-feeding, but progress was slow, particularly in rural regions.

At year's end, ISNA reported 390 cases of negligence in which children were victims. At year's end, ISDEMU had 1,639 cases of child abuse and mistreatment on file. The ISNA reported 207 cases of child sexual abuse during the year, compared with 143 cases in 2003 and 173 in 2002. A majority of the victims were female. The Olaf Palme Foundation reported that it registered 5 cases of police abuse and mistreatment of street children during the year. Olaf Palme reported 5 cases of sexual abuse (including rape), 13 cases of domestic violence against children, and 8 cases of unpaid child support orders. All cases were reported to the PDDH and to the Attorney General's office. (The NGO reported that in previous years children feared reprisals if they reported abuse.)

Child prostitution was a problem. According to a 2000 UNICEF report, between 10 and 25 percent of visible prostitutes were minors, and an estimated 40 percent of the hidden prostitutes who cater to upper class clients were believed to be minors.

Children, especially those living on the streets, have been trafficked to other countries and for the purpose of sexual exploitation (*see* Section 5, Trafficking).

Child labor remained a problem (*see* Section 6.d.).

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, or within the country. There was no evidence that the Government or individual government officials participated in, facilitated, condoned, or were otherwise complicit in trafficking in persons.

In 2003, the Legislative Assembly penalized trafficking in persons; the law covers all forms of trafficking. The two statutes that dealt most specifically with trafficking assessed criminal penalties ranging from 4 to 8 years imprisonment. However, if the victim is under 18, suffers mental or physical disease, suffers violations to his freedom of transit in a foreign country, dies as a consequence of negligence or imprudence, or if the perpetrator is a law enforcement agent or public officer, the maximum sentence increases by one-third.

In October, legislators modified the Criminal Procedure Code to require that crimes against sexual freedom, including trafficking in persons, be heard during the plenary and public stage by a special collective tribunal composed of three judges, rather than a jury to prevent the release, long common among judicial authorities, of traffickers.

There were no civil penalties for trafficking. During the year, the Government prosecuted eight persons accused of trafficking. Government agencies directly responsible for combating trafficking are the Alien Smuggling and Trafficking in Persons unit of the Attorney General's Office (FGR), the PNC, ISNA, and the Directorate General of Immigration (DGM). However, these units were new and poorly funded.

The country was a point of origin and destination for international trafficking in women and children, particularly the harboring of child prostitutes. Anecdotal information suggested it was also a transit country for international trafficking for the same purpose. Sex trafficking of minors occurred within the country's borders, as did sex trafficking in which commercial sex was induced by force, fraud, or coercion. Most international trafficking victims came from Nicaragua, Honduras, and South

America. Particular groups at special risk for trafficking were girls and young women from 12 to 19 years of age, persons from rural and poor areas, single mothers in poor areas, adolescents without formal schooling, adolescent mothers, unemployed young men, and foreign girls. In October, the International Labor Organizations (ILO) stated that children were most vulnerable to becoming victims of trafficking. The ILO's International Program for the Elimination of child Labor (IPEC) developed a database for children involved in prostitution and trafficking that revealed that 125 children in the downtown San Salvador area were involved in sexual exploitation.

There was evidence that San Salvador was a transit point for girls trafficked to Mexico, the United States, and other Central American countries. Some children also were trafficked internally to the port city of Acajutla and to bars and border regions. Children from Nicaragua, Honduras, and South America were trafficked to work in bars in major cities, specifically in San Miguel.

In May, the country's Consul in Chiapas, Mexico, asserted that approximately 200 Salvadoran women worked as prostitutes in Mexico. The Coordinator of the Public Security unit of the municipality, Angel Mateos, asserted that dozens of Salvadoran girls ages 13 to 19 worked as prostitutes in Chiapas. He also linked them with gangs.

In July, authorities arrested Sara Elizabeth Galdamez de Orellana for prostituting three girls ages 14 to 16 in Metapan. However, she was acquitted by a Justice of the Peace for lack of evidence. As of October, the AG was trying to obtain additional evidence to reopen the case.

On October 16, Border Police, acting in cooperation with ISNA, conducted a nationwide sting operation against traffickers. Thirteen traffickers were arrested, and 15 minors were rescued from forced prostitution.

According to police, the most common methods of recruitment were lucrative job offers; inducement into prostitution by family, friends, and smugglers; and kidnapping.

The Salvadoran Network Against Trafficking, composed of the ILO, Catholic Relief Services, Las Dignas, CONAMUS, Flor de Piedra, FESPAD, and CARITAS, provided legal counseling and human rights awareness to victims of trafficking.

The Government detained illegal migrants, including those who might have been trafficking victims. When illegal immigrants who were victims of trafficking were older than 18 years old and did not request assistance or express fear for their lives, they were deported as a matter of policy. Minors were not immediately deported but were instead repatriated, with ISNA cooperating with the counterpart organization in the victim's country of origin. The police encouraged national trafficking victims to press charges against traffickers. A foreign trafficking victim may file a criminal case, but in practical terms, illegal migrants, including foreign victims of trafficking, were deported before they had the opportunity to do so. Victims could apply for temporary residency or refugee status if they were likely to face persecution in the country of origin. Access to legal, medical, and psychological services was accessible on request. Victims of trafficking were not treated as criminals unless they were undocumented workers of legal age. The Government provided assistance to its repatriated citizens who were victims of trafficking.

The Government funded foreign and domestic NGOs that provided services to illegal migrants who might also have been trafficking victims. ISNA provided protection, counseling, and legal assistance to abused, homeless, and neglected children, including those who might also have been trafficking victims.

Persons With Disabilities.—There was discrimination against persons with disabilities in employment and education. The law mandates access to buildings for persons with disabilities, but in practice, the Government often did not enforce these provisions. Although efforts increased to combat discrimination and increase opportunities for those with nonwar-related disabilities, they were still inadequate. The Ministry of Labor promoted compliance with a 2000 law that requires that 1 of every 25 employees hired by private businesses be disabled, an increase from the previous requirement of 1 in 50. There was no reliable data on the actual number of persons with disabilities employed, but the unemployment rate among the disabled was significantly higher than that of the general population.

During the year, the National Secretariat of the Family (SNF) estimated that 7 to 10 percent of the population had some form of disability. A 2000–01 study by the World Health Organization in conjunction with local and international partners found that the majority of persons with disabilities were young, lived in rural areas, and had little access to rehabilitation services. It also found that many of the causes of disability were preventable.

Efforts to combat discrimination and increase opportunities for those whose disabilities were unrelated to the war were growing but remained inadequate. The Ministry of Labor promoted voluntary compliance with a 2000 law that requires businesses to employ 1 person with a disability for every 25 employees, an increase from the preexisting requirement of 1 for 50. The Ministry's limited resources and decentralization of its records meant that there were no reliable data on the number of persons with disabilities who were employed; however, the unemployment rate was significantly higher than that in the general population.

Access by persons with disabilities to basic education was limited due to lack of facilities and appropriate transportation. Few of the Government's community-based health promoters were trained to treat persons with disabilities, and they rarely provided such services.

In February, the Legislative Assembly debated and let stand a previously enacted special statutory law authorizing persons with disabilities to be members of municipal boards of directors. However, the National Committee for Disabled Persons (CONAIPD), the Independent Group for a Comprehensive Rehabilitation (ACOGIPRI), and the Salvadoran Association for Blind People alleged that this provision is not enforced in practice.

In May, SNF began a housing project design for disabled persons selected by the CONAIPD.

There were several organizations dedicated to protecting and promoting the rights of persons with disabilities, but funding was insufficient. Foreign funds for badly needed rehabilitation services channeled through the Telethon Foundation Pro-Rehabilitation, a local private voluntary organization, helped address numerous rehabilitation issues and provided alternatives for the education and rehabilitation of persons with disabilities. The Government and national and international NGOs provided funding for the Salvadoran Rehabilitation Institute for the Disabled, which had 10 centers throughout the country and offered medical treatment, counseling, special education programs, and professional training courses.

Indigenous People.—There were no special rights for indigenous people; however, they were allowed to make decisions regarding their communal lands just as any other landowners under the Constitution. The Constitution states that native languages are part of the national heritage and should be preserved and respected. There were no national laws regarding indigenous rights. According to research done during the year by the NGO Native Land, Jose Matias Delgado University, the Environmental Ministry, and National Geographic, the country has three different classes of indigenous people: Nahua-Pipiles (western and central areas of the country), Lencas (eastern region), and Cacaoperas (eastern region). This research concluded that indigenous people had lost their traditional relationship with the land, that people living in the capital believed that the country did not have an indigenous population, and that in general indigenous people were considered peasants.

Most indigenous people have adopted local customs and assimilated into the general population, from which they now are generally indistinguishable. There were a few very small communities whose members continue to wear traditional dress and maintain traditional customs to a recognizable degree; they did so without repression or interference. These small indigenous groups existed in the poorest parts of the rural countryside where employment opportunities were few and domestic violence was a problem.

Indigenous people reportedly earned less than other agricultural laborers. Indigenous women in particular had little access to educational and work opportunities due to cultural practices, lack of resources, and rural underdevelopment. As with the poor rural sector in general, access to land was a problem for indigenous people. Few possessed titles to land, and bank loans and other forms of credit were extremely limited.

There were some small, active indigenous associations. The best known was the National Association of Indigenous Salvadorans.

Other Societal Abuses and Discrimination.—In April, sex workers charged that the January criminal reforms on sexual exploitation were misunderstood by PNC officers and the Municipal Police (CAM). According to the workers, PNC agents arrested transvestites working as prostitutes, although prostitution per se is not a crime in the country.

On March 23, the body of transvestite Jose Natividad Flores Duran was found next to the Catholic church in Cerro Grande, San Vicente; Flores apparently died after having been hit with stones. The same night, unknown persons killed David Antonio Andrade Castellano in a similar fashion in the El Santuario neighborhood, near San Vicente cemetery.

In October, the Ministry of Governance denied legal status to "En Nombre de la Rosa," a homosexual and transvestite association (*see* Section 2.b.).

In 2003, the human rights NGO named Entre Amigos reported that unknown persons killed three transvestites, Jose Cornado Galdamez, Reyes Armando Aguilar, and Jose Roberto de Paz, as they walked down the main street of Santa Tecla, La Libertad.

Entre Amigos presented a petition before the AG's office; investigations were ongoing at year's end.

In a 2003 program sponsored by the Government of the Netherlands, Entre Amigos trained police officers in respecting the rights of homosexuals; the program ended in February.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the rights of workers and employers to form unions or associations, and workers and employers exercised these rights in practice; however, there were some problems. There were repeated complaints by workers, in some cases supported by the ILO Committee on Freedom of Association (CFA), that the Government impeded workers from exercising their right of association. Union leaders asserted that the Government and judges continued to use excessive formalities as a justification to deny applications for legal standing to unions and federations. Among the requirements to obtain legal standing, unions must have a minimum of 35 members in the workplace, hold a convention, and elect officers. According to the Ministry of Labor (MOL), 30 per cent of the country's workforce was unionized.

In May 2003, the Ministry of Labor (MOL) denied registration to the communications union SITCOM for failing to meet the legally prescribed minimum number of 35 affiliated employees. The MOL refused to include radio station workers as part of the communications industry and two union-affiliated workers whom their employer considered management employees, which made them ineligible for union membership. In March, the Administrative Chamber of the Supreme Court ordered the MOL to present a report regarding its denial.

Public agencies that provide essential services have the right to form unions. Military personnel, police, and government workers may not form unions but are allowed to form professional and employee organizations. The Labor Code does not require that employers reinstate illegally dismissed workers. The Labor Code specifies 18 reasons for which an employer can legally suspend workers. The employer can invoke 11 of them unilaterally without prior administrative or judicial authorization. In practice, some employers dismissed workers who sought to form Unions. The Government generally ensured that employers paid severance to these workers. However, in most cases, the Government did not prevent their dismissal or require their reinstatement. Workers and the ILO reported instances of employers using illegal pressure to discourage organizing, including the dismissal of labor activists and the circulation of lists of workers who would not be hired because they had belonged to Unions.

b. The Right to Organize and Bargain Collectively.—The Constitution and the Labor Code provide for collective bargaining rights for employees in the private sector and for certain categories of workers in autonomous government agencies, such as utilities and the port authority.

The MOL oversees implementation of collective bargaining agreements and acts as a conciliator in labor disputes in the private sector and in autonomous government institutions. In practice, ministers and the heads of autonomous government institutions often negotiated with labor organizations directly, relying on the MOL only for such functions as officially certifying Unions. The Ministry often sought to conciliate labor disputes through informal channels rather than attempt to enforce regulations strictly, which has led to charges that the Ministry was biased against labor. Labor leaders asserted that the Government had an unfair advantage in arbitration of public sector labor disputes, because the Government holds two of three seats on arbitration panels. (The employer, the workers, and the Labor Ministry each name one representative to a panel.)

The law provides for the right to strike, and workers exercised this right in practice. Fifty-one percent of all workers in an enterprise must support a strike, including workers not represented by the Union. Unions may strike only after the expiration of a collective bargaining agreement or to protect professional rights. Unions first must seek to resolve differences through direct negotiation, mediation, and arbitration before striking. A strike must aim to obtain or modify a collective bargaining agreement and to defend the professional interests of workers. Union members must approve a decision to strike through secret ballot. The Union must name a strike committee to serve as a negotiator and send the list of names to the MOL,

which notifies the employer. The Union must wait 4 days from the time the Ministry notifies the employer before beginning the strike.

Public workers who provide vital community services are not allowed to strike legally; however, the Government generally treated strikes called by public employee associations as legitimate.

There were approximately 240 maquila plants, the majority of which were located in the country's 15 Export Processing Zones (EPZs). The Labor Code applies in the EPZs, and there are no special EPZ labor regulations.

There were credible reports that some factories dismissed union organizers, and there were no collective bargaining agreements with the 18 unions active in the maquila sector. As of September, there were 11 unions in the maquila sector. At year's end, the Ministry of Labor reported that the country had 147 active unions and 156 registered unions, 17 labor federations, and 2 labor confederations.

Workers in a number of plants reported verbal abuse, sexual harassment, and, in several cases, physical abuse by supervisors. The MOL had insufficient resources to cover all the EPZs. Allegations of corruption among labor inspectors continued to surface (*see* Section 6.a.).

In March, Mirna Suyapa Gomez presented a petition before the Deputy Ombudsman for Labor Rights and the Ministry of Labor. Gomez alleged that the maquila Leader Garments dismissed her despite her status as financial secretary of the Salvadoran Textile Industry Union. In September, the MOL confirmed that Gomez had accepted severance payment instead of reinstallation.

The ICFTU reported persistent problems facing female employees in EPZs, including mandatory pregnancy tests and firing of workers who were pregnant (*see* Section 5).

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children, except in the case of natural catastrophe and other instances specified by law, and the Government generally enforced this provision; however, trafficking in persons, primarily women and children, was a problem (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Constitution prohibits the employment of children under the age of 14; however, child labor was a problem. According to ILO/IPEC research, more than 220,000 children between the ages of 5 and 13 worked, with 30,000 children employed in hazardous activities. IPEC and MOL programs have helped over 5,000 children depart the workplace and reenroll in school. In September 2003, the Minister of Labor asserted that 67 out of 100 children were engaged in some form of work, including family household work. Minors age 14 or older may receive special Labor Ministry permission to work but only where such employment is indispensable to the sustenance of the minor and his or her family. This is most often the case with children of peasant families who traditionally work during planting and harvesting seasons. The law prohibits those under the age of 18 from working in occupations considered hazardous (*see* Section 6.e.).

The MOL was responsible for enforcing child labor laws; in practice, labor inspectors focused almost exclusively on the formal sector, where child labor was rare, and in the past few labor inspectors have dealt with child labor cases. The MOL received few complaints of violations of child labor laws, because many citizens perceived child labor as an essential component of family income rather than a human rights violation. The law limits the workday to 6 hours (plus a maximum of 2 hours of overtime) for youths between 14 and 16 years of age and sets a maximum normal workweek for youths at 34 hours. The constitutional provisions apply to all sectors of the economy. However, there is a large informal sector where it was difficult to monitor practices or enforce labor laws. Orphans and children from poor families frequently worked for their own or family survival as street vendors and general laborers in small businesses, mainly in the informal sector. Children in these circumstances often did not complete schooling. There were no reports of child labor in the industrial sector.

In January, Human Rights Watch (HRW) reported that thousands of girls, some as young as age 9, worked as domestics, making them vulnerable to physical or sexual abuse. In May 2003, ILO/IPEC' published a research paper entitled "Understanding Child Labor in El Salvador." According the IPEC data, 1 out of 10 children worked. Children's participation in work activity increased with age; while less than 2 percent of children aged 5 to 9 work, approximately 13 percent of children aged 10 to 14 worked. Child labor was more common in rural areas (15.7 percent) than in urban areas (7.7 per cent). Approximately 60 percent of children worked in the informal sector in micro-agricultural and nonagricultural family enterprises, and they did not receive a salary.

In September, the MOL convened the first meeting of the National Committee Against Child Labor, which, in addition to the MOL, included representatives from the Ministries of Education, Agriculture, and Governance, the private sector, labor groups, and civil society NGOs. In September, an MOL report on the eradication of child labor indicated that 7,000 child laborers had been removed from the worst forms of child labor and reenrolled in school since 1999.

According to a June HRW report, up to one-third of sugarcane workers were children under the age of 18. The same report also revealed that medical care was often not available on the sugarcane farms, and children frequently had to pay for the cost of their own medical treatment.

e. Acceptable Conditions of Work.—The minimum wage is set by executive decree based on recommendations from a tripartite committee (which includes government, labor, and business). In 2003, the tripartite committee agreed to raise the minimum daily wage to $5.28 for service employees, $5.16 for industrial laborers, and $5.04 for maquila workers. The agricultural minimum wage remained $2.47, with $3.57 for seasonal agriculture industry workers. The minimum wage with benefits did not provide a decent standard of living for a worker and family.

The MOL is responsible for enforcing minimum wage laws and generally did so effectively in the formal sector. However, some maquila plants underpaid workers and failed to compensate them in accordance with the law for mandatory overtime, and did not pay legally mandated contributions to health and pension programs. As of September, the MOL received 816 complaints alleging that the minimum wage was not paid. The MOL issued 541 sentences that favored workers; the remaining cases were pending. Corruption among labor inspectors and in the labor courts continued to be a problem, although the MOL received an increased budget to hire more inspectors, offer increased training to existing inspectors, and perform more labor inspections.

The law sets a maximum normal workweek of 44 hours. It limits the workweek to no more than 6 days for all workers and requires bonus pay for overtime. By law, a full-time employee is paid for an 8-hour day of rest in addition to the 44-hour normal workweek and receives an average of 1 month's wage a year in required bonuses plus 2 weeks of paid vacation. Many workers worked more hours than the legal maximum; some were paid overtime but others were not.

The Constitution and the Labor Code require employers, including the Government, to take steps to ensure that employees were not placed at risk to their health and safety in their workplaces. These laws prohibit the employment of persons under 18 years of age in occupations considered hazardous or morally dangerous, such as bars and pool halls; the prohibition also applies to hazardous occupations such as agricultural work with poisonous chemicals or factory work with dangerous equipment. The Labor Code prohibits pregnant women from engaging in strenuous physical exertion at the workplace after the fourth month of pregnancy. Health and safety regulations were outdated, and enforcement was inadequate. The MOL attempted to enforce the applicable regulations but had restricted powers and limited resources to enforce compliance. Workers in some maquilas expressed concerns about unhealthy drinking water, unsanitary bathrooms and eating facilities, and inadequate ventilation (problems with dust and heat).

GRENADA

Grenada is a parliamentary democracy, governed by a prime minister, a cabinet, and a unicameral legislature, with a governor general as titular head of state. In November 2003, Prime Minister Keith Mitchell's New National Party (NNP) won 8 out of 15 parliamentary seats in generally free and fair elections. The judiciary is independent.

The Royal Grenada Police Force is responsible for maintaining internal law and order and external security. Civilian authorities maintained effective control of the security forces. Some members of the security force committed occasional human rights abuses. Following Hurricane Ivan, the Regional Security Service (RSS) sent soldiers and police officers from other Caribbean nations to assist the police force with maintaining law and order. The RSS was present from September to December.

The free-market economy was based on agriculture and tourism. Grenada and 2 smaller islands, Carriacou and Petit Martinique, had a population of approximately 102,000. Hurricane Ivan damaged an estimated 90 percent of island houses, destroying 40 percent totally, and damaged 91 percent of the rain forest and the agricul-

tural sector. The Caribbean Development Bank estimated that the economy contracted by 3.6 percent during the year.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas, particularly continued violence against women and instances of child abuse.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reports that government officials employed them. Flogging, a legal form of punishment, was rare but was used as punishment for sex crimes. The Police Commissioner continued to speak out strongly against police use of unlawful force.

Prison conditions generally met international standards, the Government permitted visits by independent human rights observers, and such visits occurred during the year. The main prison was damaged during Hurricane Ivan, and the authorities permitted some prisoners, including 15 of the "Grenada 17," to leave. The 15 prisoners returned at the end of each day, and the prison was repaired by year's end.

In September, RSS personnel reportedly used excessive force to stop a riot at the prison. According to press reports, inmates complained about beatings, broken limbs, and humiliation. A local attorney called upon the Government to investigate the charges.

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

The 830-person national police force, including an additional 200 rural constables, had a hierarchical structure and was generally effective in responding to complaints; however, lack of resources was a problem. While individual cases of corrupt or abusive police have been reported, there was no generalized problem of police corruption. In September, authorities accused five police officers of looting after the passing of Hurricane Ivan, and an investigation continued at year's end. The police investigated allegations of police brutality internally. The Police Commissioner can discipline officers (up to the rank of sergeant) in cases of brutality with penalties that include dismissal. Only the Public Service Commission can discipline officers with the rank of inspector or above. For several months following the passing of Hurricane Ivan, a temporary curfew was enacted, and RSS troops provided internal law enforcement assistance. By year's end, the curfew had been lifted, and all foreign troops had left the country.

The law permits police to detain persons on suspicion without a warrant, but they must bring formal charges within 48 hours, and this limit generally was respected in practice. The law provides for a judicial determination of the legality of detention within 15 days after arrest on a criminal charge. The police must formally arraign or release a detained person within 60 days, and the authorities generally followed these procedures. There was a functioning system of bail, although persons charged with capital offenses were not eligible. Persons charged with treason may be accorded bail only upon the recommendation of the Governor General. In practice, detainees were provided access to a lawyer and family members within 24 hours.

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

The judiciary was a part of the Eastern Caribbean legal system. There were three resident judges who heard cases in the Supreme Court. An appeals court, staffed by a chief justice who traveled between the Eastern Caribbean Islands, heard appeals cases. Final appeal may be made to the Privy Council in the United Kingdom.

The law provides for the right to a fair public trial, and the authorities generally observed this right in practice. There is a presumption of innocence, and the law protects persons against self-incrimination and requires the police to explain a person's rights upon arrest. The accused has the right to remain silent and to seek the advice of legal counsel. A defense lawyer has the right to be present during interrogation and may advise the accused how to respond or not to respond to questions. The accused has the right to confront his accuser.

The court appoints attorneys for indigents only in cases of murder or other capital crimes. In other criminal cases that reach the appellate stage, the court appoints a lawyer to represent the accused if the defendant was not represented previously

or reappoints earlier counsel if the appellant no longer could afford that lawyer's services. Assizes are held three times a year for a 2-month period. With the exception of persons charged with a killing and foreign-born drug suspects, the courts granted most defendants bail while awaiting trial.

In March, the Grenada High Court ruled unconstitutional the sentences given to 14 of the "Grenada 17," who were convicted for the 1983 murder of Prime Minister Maurice Bishop. In 1986, the 14 had been sentenced to death, which was commuted to life imprisonment in 1991. The High Court was set to re-sentence and possibly free the 14 until the Government appealed the decision to the Eastern Caribbean Supreme Court; a decision was pending at year's end. A separate appeal was filed for the three individuals convicted of the murder who were not sentenced to death and who had been ordered released by the High Court in 2002. In 2003, Amnesty International (AI) classified the Grenada 17 as political prisoners based upon its findings that their original trial was unfair, and subsequent appeals manipulated for political reasons.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The independent media were active and expressed a wide variety of views without restriction. There were four weekly newspapers, seven radio stations, and a private television station.

In May, the Government reportedly attempted to intimidate members of the press who reported on allegations of corruption against the Prime Minister. One journalist reportedly was threatened and later detained by the police after attempting to report the incident. The Media Workers Association of Grenada reported that the Government threatened to sue media outlets if they reprinted an article from an Internet journal on the corruption allegations. Both the Association of Caribbean Media Workers and the international Committee to Protect Journalists criticized the Government for seeking to intimidate the media.

The Government did not restrict access to the Internet.

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

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

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of movement within the country.

The Constitution does not address forced exile, but the Government did not use it.

The Government has not established a system for providing protection to refugees or asylum seekers. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum. Although the Government provides temporary protection to individuals who may not qualify as refugees under the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, no one sought such protection during the year.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. General elections must be held every 5 years. In November 2003, the incumbent NNP administration of Prime Minister Keith Mitchell retained power by winning 8 of the 15 seats in Parliament in elections generally considered free and fair, but with some irregularities noted by the Organization of American States in several very close races. On March 19, the court ruled that one contested Parliament seat remain with the NNP.

There were several allegations of corruption during the year. In August, a Commission of Inquiry began to investigate whether Prime Minister Mitchell accepted money from a German citizen, reportedly in exchange for receiving a diplomatic title

in the Government. The Prime Minister claimed the money was approved by the cabinet and was for legitimate trade promotion expenses. At year's end, the German citizen was imprisoned in a foreign country on fraud charges.

In the aftermath of Hurricane Ivan, government and opposition politicians criticized each other for attempting to politicize the distribution of relief supplies.

There was no law providing for public access to government information; however, citizens may request access to any information that is not deemed classified.

There were 4 women in the 15-seat Parliament; there were 4 women among the 12 appointed senators. There were six female ministers of government. Women filled 8 of the 13 permanent secretary posts, the highest civil service position in each ministry.

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

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

The Truth and Reconciliation Commission, launched in 2001 to investigate the period between the mid-1970s and the late 1980s, had still not presented its final report to the Government. There was public perception that the report never would be issued. The report was due to have been delivered in June. The Government did not react to AI's 2003 claim that the trial and sentencing of the 17 convicted leaders of the 1983 Revolutionary Government was flawed.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination based on race, place of origin, political opinion, color, creed, or sex, and the Government generally enforced these provisions.

Women.—Women's rights monitors believed that violence against women remained a serious problem. The law prohibits domestic violence and provides for penalties at the discretion of the presiding judge based on the severity of the offense. In practice, the court enforced the law.

In September, RSS personnel reportedly traded hurricane relief supplies for sexual favors with women. The police confirmed receiving credible reports that such incidents occurred, including from the Grenada National Organization of Women.

The law prohibits rape and stipulates a sentence of 15 years' imprisonment for a conviction of any nonconsensual form of sex. Sentences for assault against a spouse varied according to the severity of the incident. A shelter accommodating approximately 20 battered and abused women and their children operated in the northern part of the island, staffed by medical and psychological counseling personnel.

Prostitution is illegal.

The law prohibits sexual harassment; there were no reported cases during the year.

Women generally enjoyed the same rights as men, and there was no evidence of official discrimination in health care, employment, or education. Women frequently earned less than men performing the same work; such wage differences were less marked for the more highly paid jobs. There were a number of active community based and political women's groups, such as the Grenada National Organization of Women.

Children.—The Government was committed to children's rights and welfare. The Social Welfare Division within the Ministry of Housing, Social Services, and Cooperatives provided probationary and rehabilitative services to youths, day care services and social work programs to families, assistance to families wishing to adopt or provide foster care to children, and financial assistance to the six children's homes run by private organizations.

Education was compulsory, free, and universal until the age of 16.

Boys and girls had equal access to medical care.

Government social service agencies reported a decrease in the number of reported child abuse cases, including sexual abuse. Abused children were placed either in a government-run home or in private foster homes. The Criminal Code suggests penalties ranging from 5 to 15 years' imprisonment for those convicted of child abuse and disallows the victim's alleged "consent" as a defense in cases of incest.

Trafficking in Persons.—The law does not address trafficking in persons specifically; however, there were no reports that persons were trafficked to, from, or within the country.

Persons With Disabilities.—The law does not protect job seekers with disabilities from discrimination in employment. The law does not mandate access to public buildings or services.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form and join independent labor unions. Although employers are not legally obliged to recognize a union formed by their employees, they generally did so in practice. Labor Ministry officials estimated that 45 percent of the work force was unionized.

All major unions belonged to one umbrella labor federation, the Grenada Trades Union Council, which was subsidized by the Government.

b. The Right to Organize and Bargain Collectively.—Workers exercised the legal right to organize and to participate in collective bargaining. The law requires employers to recognize a union that represents the majority of workers in a particular business. There are no export processing zones.

The law provides workers with the right to strike, and workers exercised this right in practice.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor is illegal; however, children sometimes worked in the agricultural sector on family estates. The statutory minimum age for employment of children is 18 years. Inspectors from the Ministry of Labor enforced this provision in the formal sector by periodic checks; however, enforcement in the informal sector remained a problem.

e. Acceptable Conditions of Work.—There is a tripartite Wages Advisory Committee, composed of union, business, and government representatives. The Labor Ministry prescribes minimum wages, which last were updated in 2002. Minimum wages were set for various categories of workers; for example, agricultural workers were classified into male and female workers. Rates for men were $1.85 (EC$5.00) per hour, and for women $1.75 (EC$4.75) per hour; however, if a female worker performed the same task as a man, her rate of pay was the same. All agricultural workers must be paid for a minimum of 5 hours per day. The minimum wage for domestic workers was set at $148 (EC$400) monthly. The minimum wage did not provide a decent standard of living for a worker and family. Most workers, including nonunionized workers, received packages of benefits from employers set by collective bargaining agreements between employers and labor unions. Many families received remittances from relatives abroad and also helped support themselves through garden-plot agriculture.

The Constitution provides for a 40-hour maximum workweek. The law does not prescribe a standard workweek; however, public sector workers are expected to work a 40-hour week Monday through Friday. The normal workweek in the commercial sector included Saturday morning work but did not exceed 40 hours. The law requires a premium for work above the standard workweek.

The Government sets health and safety standards, but the authorities enforced them unevenly. Workers have the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

GUATEMALA

Guatemala is a democratic republic with separation of powers and a centralized national administration. The Constitution provides for universal suffrage to elect a one-term president and a unicameral congress. Elections for president, considered by international observers to be free and fair, were held in 2003, and Oscar Berger of the three-party coalition Grand National Alliance (GANA) won a 4-year term, which started in January. The judiciary is independent; however, it suffered from inefficiency, corruption, and intimidation.

The Minister of Government (Interior) oversees the National Civilian Police (PNC), which has primary responsibility for internal security. There are no active members of the military in the police command structure; however, the Government occasionally tasked the army with providing personnel to support the police. The law subordinates army personnel to police control during joint patrols or operations. The military is responsible for external security, and the Constitution requires that the Minister of Defense be a military officer. The influence of organized crime re-

mained pervasive but waned considerably within the executive branch. Some members of the security forces committed human rights abuses. The civilian authorities generally maintained effective control of the security forces.

The economy is market-based, and the population is approximately 12.1 million. Apparel, nontraditional agricultural exports, and tourism grew rapidly, earning more than traditional exports of coffee, sugar, and bananas. Remittances from citizens abroad, approximately $2.5 billion, constituted the largest source of foreign exchange, and more than 30 percent of the population depended on remittances to raise the family income above the poverty line. Foreign aid also was significant. The economic growth rate was approximately 2.5 percent. More than 50 percent of the work force and 60 percent of the poor were engaged in some form of agriculture. Inflation was about 9.3 percent. Land distribution was highly skewed: 1 percent of farms contained more than one-third of all cultivated land. There was a marked disparity in income distribution, and poverty was pervasive, particularly in the large indigenous community. Approximately 57 percent of the total population and 71 percent of persons in rural areas lived in poverty; 22 percent of the population lived in extreme poverty. Combined unemployment and underemployment reached an estimated 18 percent, and 70 percent of the population was employed in the informal sector.

The Government generally respected the human rights of its citizens; however, very serious problems remained in some areas. There were credible reports of unlawful killings by security forces. There were no substantiated reports of politically motivated killings. The U.N. reported that "social cleansing" continued. The number of reported lynchings remained approximately the same as the previous year. On January 19, the Supreme Court reinstated the 30-year sentence of Colonel Juan Valencia Osorio for the 1990 murder of anthropologist Myrna Mack Chang, which had been previously overturned by an Appeals Court in 2003.

There were credible reports of individual police officers' involvement in kidnappings for ransom. Security forces tortured, abused, and mistreated suspects and detainees. Prison conditions remained harsh. In most cases, the prosecutorial and judicial systems did not ensure full and timely investigations, fair trials, or due process. Arbitrary arrest and lengthy pretrial detentions were problems. Judges and other law enforcement officials were subjected to intimidation and corruption. Impunity was pervasive, although efforts to reform the judiciary continued. Members of the media were targets of attacks and intimidation. The number of attacks on members and employees of nongovernmental organizations (NGOs) and human rights workers by unidentified persons decreased slightly during the year, although one organization received a significant threat. Violence increased, and discrimination against women persisted, as did societal abuse of children and discrimination against persons with disabilities and indigenous people. Trafficking in persons was a problem. There were reports of retaliation by employers against workers who sought to form unions and participate in union activities, and the Government did not enforce consistently laws to protect workers who exercised their rights. There was widespread employment of minors in the informal sector.

During a February 25 ceremony for the National Day for the Dignity of Victims of Violence, President Oscar Berger "re-launched" the 1996 Peace Accords as a national agenda and symbolically apologized to the citizens on behalf of the State for human rights violations committed during the 36-year civil conflict.

In June, the Berger Administration reduced the size of the military from an authorized strength of 27,214 to 15,500 personnel, eliminated 7 major military commands and units, and reduced the military budget to 0.33 percent of Gross Domestic Product (GDP), far below the ceiling required by the 1996 Peace Accords. In August, the military made public a new doctrine, a core part of which addresses the importance of protecting and promoting human rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, security forces committed a number of unlawful killings. The Government arrested and prosecuted some of those responsible; however, as in 97 percent of all homicide cases nationwide, the weak investigative, enforcement, and prosecutorial system prevented the Government from adequately investigating killings and other crimes or arresting and successfully prosecuting perpetrators (*see* Sections 1.c. and 1.e.). The U. N. Mission in Guatemala (MINUGUA) reported several cases in which military and police officials were responsible for killings, usually for criminal motives. During the year, the PNC Of-

fice of Professional Responsibility (ORP) investigated 51 reports of police involvement in killings.

In December 2003, two military personnel, Marvin Juan Luis and Floridalma Paz Gallardo, acting on orders from Colonel Luis Carvajal, former head of the Army's protocol office, shot and killed his wife Ingrid Lima de Carvajal. All three were in prison awaiting trial at year's end. Other members of the military allegedly threatened the victim's mother and sister if they acted as co-plaintiffs in the case. There were other reports of military or police involvement in unlawful killings.

On January 26, David Ixcol Escobar, a former gang member, complained to the press that two police cars had blocked him, and several officers had threatened his life. The next day, he and a friend were found shot to death. The following day, a witness to the killing was shot multiple times and killed. The Public Ministry created a case file regarding the threats against Escobar; however, neither it nor the ORP had any record of an investigation into the killings.

On July 22, unknown individuals shot and killed Jesus Mendoza, a cousin of Otoniel de la Roca Mendoza (a witness in the 2000 Inter-American Court of Human Rights (IACHR) case on the 1992 disappearance of guerilla leader Efrain Bamaca Velasquez). Some human rights leaders alleged that the killing was related to De la Roca's 2000 testimony before the IACHR. By year's end, the authorities had not arrested anyone for the killing.

On August 31, members of the PNC entered the Nueva Linda plantation in Champerico, Retalhuleu to execute a court order to evict over 1,000 peasants who illegally occupied the land. In the ensuing conflict, 3 police and 7 workers were killed and more than 20 were injured, including 1 police officer who subsequently died from his wounds (*see* Section 1.c.).

The Special Unit for Human Rights charged two persons for the July 2003 killing of Josue Israel Lopez, Auxiliary Human Rights Ombudsman for Chimaltenango Province. Both were in prison awaiting trial at year's end.

On October 6, the Quiche Penal Court convicted and sentenced Miguel Xon Morales to 15 years in prison for the April 2003 killing of his cousin, human rights activist and Mayan priest Diego Xon Salazar.

In September, the case of the May 2003 killing of Mayan priest Gerardo Cano Manuel was closed after the only witness was killed.

There were no developments and none were expected in the following cases: The 2002 shootout between members of the Criminal Investigative Service (SIC) of the PNC and military intelligence personnel; the 2002 alleged police killing of Rudy Castillo and Erick Garcia in Sumpango, Sacatepequez, or the 2002 killing of William Ruano Mayen.

Most cases of political killings from past years remained unresolved in national courts, such as those of former presidential candidate Jorge Carpio in 1993 and, in 2001, of Luis Garcia, a witness in the 1998 Gerardi case. There was some progress in cases of past extrajudicial killings by members of the security forces; however, in many other cases, there was little or no progress.

On January 19, the Supreme Court reinstated the 30-year sentence against Colonel Juan Valencia Osorio for the 1990 killing of anthropologist Myrna Mack Chang. However, on January 22, Valencia Osorio escaped from police custody while under house arrest pending the reinstatement of his sentence. Military officers allegedly aided with the disappearance, and Valencia remained a fugitive at year's end. On April 22, President Berger made a formal apology to the Mack family. The Government had not allocated funds to pay the $779,000 (6.2 million quetzals) reparations to the Mack family ordered by the IACHR by year's end.

On April 19, the Government held a ceremony to honor Jose Merida Escobar, the primary investigator in the Mack case, who was killed in 2001 after presenting evidence against Noel de Jesus Beteta.

During the year, prosecutors in the 1998 murder of Bishop Juan Gerardi, the Coordinator of the Archbishop's Office on Human Rights (ODHAG), investigated 10 or more suspects thought to be involved in the killing, while awaiting a decision on an appeal filed with the Third Appeals Court in January that requested that the Fourth Penal Court be recused from hearing the case. The appeal became moot when the members of the Penal Court were replaced after the October election of a new Supreme Court.

According to MINUGUA, in 90 percent of the over 600 massacres committed during the 36-year civil conflict, the Government never investigated or prosecuted anyone. However, there was progress on three cases during the year.

In April, during an IACHR hearing, the Government accepted responsibility for the 1982 massacre in Plan de Sanchez, Baja Verapaz, in which the army and armed paramilitary groups (PACs) allegedly killed 268 people. The Court ruled against the

Government and ordered it to pay $8 million (64 million quetzals) in reparations to the survivors.

On July 9, the Coban Sentencing Trial sentenced 14 military personnel, 1 lieutenant and 13 enlisted troops, to 40 years in prison each for the murder of 11 and injury to 35 civilians during the 1995 Xaman massacre.

The trial of six former PACs for their suspected participation in the 1982 Rio Negro massacre in Rabinal, Baja Verapaz was scheduled to begin in October (*see* Section 1.e.); however, it was delayed until early 2005 due to minor procedural errors. At year's end, police continued to search for former Army Captain Jose Solares Gonzalez for his alleged participation in the massacre.

The case of the 1982 military massacre of 250 civilians at Dos Erres, Peten, remained stalled in court by 36 motions of appeal by the defense.

Unlike 2003, exhumations of secret mass graves continued throughout the year without major threats. Forensic scientists have exhumed more than 2,857 remains from more than 321 sites since exhumations began in 1992. During the year, forensic scientists exhumed 433 remains from 71 different sites. Exhumation teams have increased their productivity tenfold since commencing operations in 1992 but noted that demand for exhumations increased in recent years, and the work could continue for several decades. Most of the bodies recovered were those of civilian victims of military or paramilitary killings in the early 1980s. Forensics groups used the information obtained from the exhumations to verify eyewitness reports of massacres—of which the Commission for Historical Clarification recorded 669—and to assign responsibility. Forensic research and DNA testing identified some of the remains and were used in some criminal cases.

On April 21, Spanish judge Baltazar Garzon submitted a request to the Government to have a judge depose retired General and former de-facto president Efrain Rios Montt, retired General Benedicto Lucas Garcia, retired General and former president Fernando Romeo Lucas Garcia, retired General Angel Anibal Guevara, and five others about the deaths in the 1980 takeover of the Spanish Embassy and the disappearance of four Spanish priests during the early 1980s. On December 1, the Supreme Court named criminal court Judge Saul Alvarez to the case. On December 13, a Mexican court issued an arrest warrant at the request of the Spanish government for former Minister of Government Donaldo Alvarez Ruiz, who has been living in Mexico since General Lucas Garcia left power in 1982.

Following an April 2003 first payment to the ex-PACs, in September the Congress approved a series of three additional payments. The Congress agreed to pay each former PAC member approximately $665 (5,241 quetzals) by the end of 2006. Civil society and international human rights observers protested the indemnification, noting that former PACs were implicated in human rights abuses committed during the internal armed conflict and that the payments would further detract from other spending priorities. On November 2, former PAC members protested the lack of payment by closing highways, airports, seaports, and other transportation infrastructure. On November 24, the Public Ministry issued arrest warrants for 15 persons implicated in organizing the protests and restricting public movement. Several human rights organizations submitted a joint injunction to the Constitutional Court, questioning the legality of the payments. On December 8, the Constitutional Court issued a second provisional ruling (the first was September 21) that suspended the payments. The Court's final decision was pending at year's end. PAC leaders publicly threatened the human rights organizations for their opposition. In response to the threats, the Government provided police protection to the organizations.

On July 6, President Berger formally installed Rosalina Tuyuc, head of National Coordinator of Widows (CONAVIGUA) (which represents widows and orphans from the civil conflict), as President of the National Reparations Commission. The Commission also included seven members of civil society and numerous government agencies. Berger presented Tuyuc with a check for $3.75 million (30 million quetzals) the first payment of up to $37.5 million (300 million quetzals), that the Government committed to distributing annually to victims of the civil conflict over a 13-year period maximum of $487 million (3.9 billion quetzals) total). MINUGUA issued a report during the year that identified the Government's continued support for appropriate financing of reparations as an important indicator of its commitment to human rights.

In some cases reported in 2003, evidence was not sufficient to conclude whether the killing was politically motivated. In October 2003, two persons shot and killed National Unity of Hope (UNE) party member Miguel Salvador Aguilar while attending a political meeting at the UNE headquarters in Jalapa. Two suspects were arrested and convicted; however, the convictions were overturned on appeals. On October 15, the Second Penal Court found former FRG mayor of San Cristobal Verapaz

Hugo Cal Cojoc guilty for the May 2003 murder of Unionista party member Byron Vladimir Jom Cal. Cojoc was sentenced to 15 years in prison.

There was no progress and none was expected in the 2002 killing of Jorge Rosal, a regional leader of the Patriot Party.

On June 24, a court sentenced Ever Lopez Gomez and Billy Rene Barrios, to 9 and 29 years' imprisonment, respectively, for the 2002 killing of Menchu Foundation accountant Guillermo Ovalle (*see* Section 4).

In August, the U.N. reported that acts of "social cleansing" continued to occur. Violence against street children decreased significantly (*see* Section 5). There were multiple reports of women tortured, disappeared, and killed (*see* Section 5).

The PDH reported that during the year, there were 17 attempted lynchings, in which 5 victims died and 12 were injured, compared with 18 such attempts resulting in 14 deaths in all of 2003. The majority took place in heavily indigenous, rural areas where the justice system was least accessible. Human rights activists attributed the decrease in lynchings in 2003–04 (down from an average of 147 a year from 2000–02) to the intervention of individuals or government officials who had received training on the rule of law.

b. Disappearance.—There were no reports of politically motivated disappearances; however, there were credible allegations of police involvement in kidnappings for ransom. During the year, the ORP investigated 11 police officers for involvement in kidnappings. One officer was found guilty and dismissed. Criminal charges were pending against him at year's end. The investigations of other officers were ongoing at year's end. The Organized Crime Unit of the Prosecutor's Office reported that PNC elements were involved in 11 kidnapping cases, at times in cooperation with large criminal organizations.

On May 4, PNC officers arrested former police official Rudy Arnulfo Giron Lima on charges of involvement with kidnapping the nephew of Lizardo Sosa, President of the Bank of Guatemala. The ORP also investigated six other officers in connection with the case. Giron Lima was still under investigation at year's end (*see* Section 5).

There were no developments, and none were expected, in the 2002 illegal detention by DOAN agents and subsequent disappearance of Humberto Orellana Sis.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, there were credible reports of torture, abuse, and other mistreatment by members of the PNC during the year. These complaints typically involved the use of excessive force during police operations and harassment or arbitrary imprisonment of commercial sex workers, suspected gang members, and others targeted during extortion schemes. There were credible reports of SIC detectives torturing and beating detainees during interrogation to obtain confessions. During the year, the PNC's ORP investigated 2,088 cases of police misconduct. The PNC dismissed 506 officers for misconduct. However, the Attorney General's office, or Public Ministry, rarely has prosecuted fired officers for criminal misconduct.

There were credible reports that PNC officials or persons disguised as police officers stopped cars and buses to demand bribes or steal private property. In some cases, the supposed police officers assaulted and raped victims.

On January 31, 8 agents of Station 12 in Guatemala City threatened, robbed, and violently beat Sergio Vasquez Hernandez. The ORP's internal investigation found the commander of the Station and three agents responsible for the theft and assault. At year's end, one agent had been convicted and sentenced to 12 years in prison; however, there was insufficient evidence to charge the others involved.

Four men claimed that on March 6, two police officers from Station 16 illegally detained and mistreated them after they refused to pay extortion money to the officers. The ORP conducted an internal investigation; however, it found no evidence to substantiate the allegations. The police allegedly involved were promoted and transferred

On March 8, three police officers in Station 12 detained and beat Mynor Alvarado de Leon, a human rights defender from the Center for Legal Action on Human Rights (CALDH). According to MINUGUA, Alvarado de Leon was accused of murder and remained in prison for almost 5 months, although ballistic evidence and other proof demonstrated his innocence. The agents involved have not been investigated. In October, CALDH presented a report to the Inter-American Human Rights Commission on Alvarado's case and human rights violations in the national prison system.

Though the Public Ministry investigated some cases of police involvement in assaults, they did not receive any reports of and therefore did not investigate specific cases of police involvement in torture.

Casa Alianza reported that the number of incidents of killing and abuse of street children had decreased during the year (*see* Sections 1.a. and 5).

From January to June 8, the Government carried out 30 court orders for forced evictions of plantations that were illegally occupied. During at least 12 of these evictions, there were credible reports that police used excessive force, including hitting civilians, burning homes and crops, and killing animals. Seventy-six percent of the evictions were conducted in Alta and Baja Verapaz, heavily agricultural areas. In 45 percent of the evictions, civilians cited labor conflicts as the reasons for their illegal invasions of the farms. Private security forces, working for plantation owners, also participated illegally in several evictions. On June 8, thousands of peasants conducted a nationwide protest against the country's land distribution and violent evictions. The Government agreed to suspend all evictions for 90 days, pending an in-depth analysis of existing land disputes and invasions. By year's end, none of the existing 89 cases of land invasions pending eviction had been resolved, though the Maria Lourdes conflict was in negotiation. The National Commission for Land Conflicts had resolved 121 land conflicts, 22 of which involved invasions, by year's end.

On August 31, members of the PNC entered the Nueva Linda plantation in Champerico, Retalhuleu, to execute a court order to evict over 1,000 peasants who illegally occupied the land. The peasants had invaded the plantation in October 2003 to protest the lack of investigation into the September 2003 disappearance and suspected killing of their supervisor, Hector Reyes Perez, the farm's administrator. An attempt at mediation by civilian and police officials ended when members of the peasant group opened fire on the police. In the ensuing conflict, 3 police and 7 workers were killed and more than 20 were injured, including 1 police officer who subsequently died from his wounds. During the eviction, police officers attacked some journalists covering the event (*see* Section 2.a.).

Journalists claimed to have witnessed the police commit at least three unlawful killings during the eviction. Following Nueva Linda, the Congressional Human Rights Committee, the Human Rights Ombudsman's office, and the Office of Professional Responsibility of the National Police all conducted investigations and issued reports on the operation. In its report, the Human Rights Committee stated that it could neither confirm nor deny accusations of unlawful killings, because the forensic specialist was not able to determine the causes of death of the peasants killed. The Committee faulted all persons involved in the incident: The Public Ministry, or Attorney General's office, for failing to investigate the administrator's disappearance; the PNC, for their poor preparation for the eviction; the peasant leaders, for exacerbating the conflict for personal motivations; and the Governor of Retalhuleu, Carlos Quintana Saravia, for favoritism toward landowners and abuse of power.

Prison conditions remained harsh. The prison system continued to suffer from a severe lack of resources, particularly in the areas of prison security and medical facilities. According to the registry maintained by the prison system, there were 8,698 persons being held at 40 prisons and jails designed to hold 6,974. Eighteen of the 40 centers were national prisons, which accommodated 7,854 of the total convicts and detainees; the other 22 were pretrial centers run by the PNC. Approximately 60 percent of the national penitentiary system population was held in pretrial detention. The average guard-to-prisoner ratio was 1 to 18.

Prisoners continued to complain of inadequate food and medical care. Corruption, especially drug-related, was widespread. Prison officials reported frequent escape attempts and other manifestations of prisoner unrest. The military continued to provide perimeter security for various prisons.

Media reported that prison authorities kept 1 prisoner in a 45 square-feet cage for 18 months. The prisoner was kept without a bed and only allowed out once a day. Following a visit by an Organization of American States (OAS) Rapporteur to the prison system, the prisoner was released into a larger room, but remained in isolation.

From January until October 1, the Penitentiary System reported 2 deaths due to unnatural causes and 11 due to natural causes (including AIDS, chronic hepatitis, and tuberculosis).

The 442 female prisoners in the penal system were held in facilities separate from men; however, the conditions were equally poor. Some prison facilities allowed the minor children of detainees to reside with their mothers, although the children were provided with minimal care. Immigration detention facilities did not always hold female detainees separate from the male population.

Juvenile offenders were held separately from adults. The Secretariat for Social Welfare runs four Centers for the Treatment and Orientation of Minors: One for girls and three for boys. Prison officials reported that at least two riots took place in the juvenile facilities to protest issues ranging from a change in management to demands for improved food quality.

PNC detention centers were designed to hold only pretrial detainees; however, sometimes pretrial detainees were kept in the national penitentiaries where they were not always separated from convicts. There were sections of national prisons designated to hold only individuals convicted of misdemeanors, but those serving sentences for minor infractions were held sometimes with those who had committed serious offenses. Approximately 22 prisoners being held in pretrial detention for high-level corruption cases, primarily former officials of the previous administration, were held in separate facilities where they had more living space than the average prisoner.

The Government permitted prison visits by independent human rights observers, public defenders, religious groups, and family members, and such visits took place throughout the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, there were credible reports of arrests without judicial warrants, illegal detentions, and failure to adhere to prescribed time limits in legal proceedings. In practice, arresting officers failed to satisfy legal requisites, particularly with minors and suspected gang members.

The country is divided into 6 police districts, each subdivided into 28 precincts. There are four special units, headed by police officers for: Information and intelligence; counter-narcotics; investigations; and environmental enforcement. The Director General, appointed by the President, leads the PNC. Since its inception, the 21,400-member PNC has been understaffed, poorly trained, and severely underfunded. On July 22, 2,500 PNC officers, gathered from around the country at the Police Academy to begin 24-hour patrols with the military in dangerous areas of the capital, protested the poor living conditions at the Academy (where officers from outside Guatemala City were supposed to be housed indefinitely) and alleged poor logistical planning for the patrols. During the protests, one officer allegedly committed suicide, though some evidence suggested that he was killed.

Police corruption was a problem, and there were credible allegations of involvement by individual police officers in criminal activity, including rapes, killings, and kidnappings. Rather than prosecute its officers, the PNC often transferred them to a different part of the country. Police impunity remained a serious problem.

Police sometimes threatened commercial sex workers with false drug charges to extort money or sexual favors. Police sometimes harassed homosexuals or transvestites with similar threats of false charges. Suspected gang members sometimes were imprisoned without charges or with false drug charges. Detainees were not always promptly informed of the charges filed against them.

Immigration and police officials often subjected persons attempting to enter the country illegally to extortion and mistreatment. Many observers believed this mistreatment is underreported.

All PNC members must meet minimum education requirements, pass an entrance examination, and undergo screening to detect suspected human rights violators and involvement in criminal activities. During the year, training for new recruits was extended from 6 to 11 months. The Ministry of Interior also increased the monthly allowance for students at the police academy, from $62.50 to $100 (500 to 800 quetzals). Police training incorporated courses on human rights and professional ethics in the curriculum; however, none of the 20,000 officers trained since 1997 has received refresher training. The military continued to incorporate human rights training into its curriculum and developed human rights courses with the Human Rights Ombudsman. Civil Affairs Officers at each command were required to plan and document human rights training provided to soldiers. A separate human rights office within the Office of the Minister of Defense was open to active participation by the human rights community.

There were 21,382 PNC officers or 1 for every 560 persons. Presence outside of the capital improved; however, approximately two-thirds of those police districts remained understaffed. A 2003 U.N. Development Program (UNDP) report calculated that only 5,000 police officers were on duty at any given time, country-wide, after accounting for officers suspended, on medical leave, on vacation, or on embassy or personal protection assignments. The PNC reported that 3,015 of its officers were indigenous.

According to the Ministry of Government, approximately 110,000 private security guards, of which at least 60,000 were unauthorized, worked in the country. According to the Gremial Federation and Security Association, approximately half worked for firms that had not completed legal requirements and were owned by former soldiers and former policemen. On October 9, Minister of Interior Carlos Vielmann suspended the authorization of new security companies.

The PNC ORP performs internal investigations of misconduct by police officers. The ORP has a strong corps of investigators and has shown considerable improvement in professionalism; however, its independence and effectiveness were hampered by the lack of material resources and the absence of cooperation from other PNC units. In isolated cases, ORP investigators appeared to participate in cover-ups of police misconduct. The ORP reported that it received 2,088 complaints, which included: 51 cases of homicide, 306 cases of abuse of authority, 360 thefts, 343 cases of corruption or bribery, 145 threats, and 69 illegal detentions. Cases with sufficient evidence to indicate that criminal acts were committed were forwarded to the Public Ministry for further investigation and prosecution, but cases rarely went to trial. Throughout the year, ORP closed 1,062 cases, and its investigations resulted in the dismissal of 506 and exoneration of 433 police officers.

MINUGUA commended the January establishment of the PNC Disciplinary Tribunal as an advance in the control and supervision of police activities and professional ethics. By September 1, the Tribunal had resolved 19 of 26 serious police abuse cases, applied sanctions to 18 police officers, and exonerated 19 officers following ORP investigations.

No active members of the military served in the police command structure. The Government did employ the military to support the police temporarily in response to the rising rates of violent crime. In July, Minister of Government Carlos Vielmann ordered joint police and military operations in 40 red zones, areas with the highest crime rates, in the capital. Human rights organizations noted that the Government could do more to strengthen police institutionalism instead of deploying military in joint patrols.

The Constitution requires that a court-issued arrest warrant be presented to a suspect prior to arrest unless he is caught in the act of committing a crime. Police may not detain a suspect for more than 6 hours without bringing the case before a judge. Once a suspect has been arraigned, the prosecutor generally has 3 months to complete his investigation and file the case in court or seek a formal extension of the detention period. The law also provides for access to lawyers and bail for most crimes.

There were no reliable data on the number of arbitrary detentions, although most accounts agree that police forces routinely ignored writs of habeas corpus in cases of illegal detention. Police reportedly detained street children and suspected gang members to remove them from the streets for the 3-month period allowed for imprisonment during investigations. Most of these detainees did not have sufficient funds to post bail and therefore were forced to remain in prison.

The law sets a limit of 3 months for pretrial detention; however, prisoners often were detained past their legal trial or release dates, sometimes for years. During the year, 60 percent of those incarcerated were in pretrial detention. Prisoners were not released in a timely fashion after completing their full sentences due to the failure of judges to issue the necessary court order or to other bureaucratic problems.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judicial system often failed to provide fair trials due to inefficiency, corruption, insufficient personnel and funds, and intimidation of judges, prosecutors, and witnesses. MINUGUA's final report noted, "judicial impunity continues being more the norm than the exception." The large majority of serious crimes still are not minimally investigated or punished. Many high-profile human rights cases remained pending in the courts for long periods as defense attorneys employed numerous dilatory appeals and motions. Courts sometimes took months to resolve even patently frivolous appeals. There were numerous credible allegations of corruption, manipulation, and intimidation in the judiciary. There were credible reports of the killing and threatening of witnesses, which continued to be a problem (*see* Sections 1.a. and 1.c.). Less than 3 percent of crimes committed were prosecuted, and significantly less received convictions.

The Supreme Court continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. During the year, The Judicial Discipline Unit investigated and held hearings for 112 of 535 complaints of wrongdoing that it had received, with the result that 65 claims were found to be baseless, 17 magistrates received written or verbal warnings, 22 judges were suspended, and the remaining cases were still under investigation at year's end.

In its efforts to investigate crimes and prosecute offenders, the Public Ministry has been hampered by inadequate training and equipment, excessive caseloads, and insufficient numbers of qualified investigators. Prosecutors remained susceptible to intimidation and corruption. In addition, the law's failure to delineate the responsibility for investigating crimes between the PNC and the Public Ministry led to rival-

ries between these organizations, as well as the duplication of investigative efforts. Only an estimated 3 percent of approximately 250,000 complaints filed with the Public Ministry annually were prosecuted. The Public Ministry's budget for the year was $57 million (458 million quetzals), which amounted to a 22 percent increase from 2003, though Attorney General Juan Luis Florido stated the amount was still insufficient.

On February 24, President Berger dismissed Attorney General Carlos De Leon for poor performance. Many human rights leaders applauded the removal of De Leon, who had been suspected of corruption, but have continuing concerns about the weak justice system. Under new Attorney General Juan Luis Florido the Public Ministry opened a series of investigations into corruption schemes involving government civilian and military officials from the previous Administration.

The government's Public Ministry and the Judiciary continued efforts to reform the judicial system. Twenty justice centers, which bring together judges, public defenders, prosecutors, private law practitioners, police, municipal representatives, and civil society in a team approach to dispute resolution and problem solving, provided efficient public service. Clerk of Court offices streamlined case processing, increased transparency, improved customer service, and virtually eliminated corruption in local case management. An analogous system was inaugurated in Guatemala City in the Prosecutor's Office Case Intake Unit. At the Prosecutor's Office Victim's Unit in the capital, doctors and nurses were on call 24 hours a day to assist rape and other crime victims and to gather evidence for their cases (*see* Section 5). Similar units operated in every department of the country.

The judiciary is composed of the Supreme Court, appellate courts, trial courts, and probable-cause judges (who function like grand juries). There also are courts of special jurisdiction, such as labor courts and family courts, which also are under the jurisdiction of the Supreme Court. The Constitutional Court, which reviews legislation and court decisions for compatibility with the Constitution, is independent of the rest of the judiciary. There are several community courts in indigenous rural areas.

The Constitution requires that Congress elect all Supreme Court and appellate court magistrates every 5 years from lists prepared by panels composed of active magistrates, representatives of the bar association, law school deans, and university rectors. The elections were held in October.

Judges and prosecutors continued to receive threats designed to influence pending decisions or to punish past decisions. Death threats and intimidation of the judiciary were common in cases involving human rights violations. Witnesses often were too intimidated to testify. Plaintiffs, witnesses, prosecutors, and jurists involved in high-profile cases against members of the military or police reported threats, intimidation, and surveillance. Those involved in government corruption cases also were targeted.

Some judges were denied private health and life insurance because their jobs were too dangerous. Between January and August, the Public Ministry had approximately 50 persons in its witness protection program. By October, the Special Prosecutor for Crimes against Judicial Personnel had investigated 80 cases, compared with 114 in 2003, but lacked the personnel and resources necessary to carry out his mission. From January to October, four justice workers, including two judges, were killed, another six were victims of attempted killing, and two were seriously injured by firearms.

In July, witnesses to the 1982 Plan de Sanchez massacre who had testified before the IACHR, began to receive death threats (*see* Section 4.).

Witnesses to the 1982 Rio Negro massacre and lawyers on the case received numerous threats in the months leading up to the October 19 opening of the trial for six former PACs (three were convicted in 1998 (*see* Section 1.a.).

Throughout the summer and fall, the Special Prosecutor for Human Rights' office indicted 20 persons for inciting the July 2003 Black Thursday riots in support of former General Efrain Rios Montt's presidential candidacy. Journalist Hector Ramirez died of a heart attack during the riots. Rios Montt, Secretary General of the FRG, remained under house arrest for his suspected role in the riots. In addition, the Supreme Court said that it would determine whether to strip immunity from four congressional representatives and two mayors. Many witnesses refused to testify out of fear of reprisal (*see* Section 4).

On March 11, a former Special Prosecutor for Human Rights was followed and stopped by two individuals, who identified themselves as members of the military and threatened her in relation to the investigation of Black Thursday.

The Law on Judicial Careers regulates the income, terms of office, promotion, training, disciplining, and other activities of judges and magistrates and mandates a 6-month training course for all newly appointed judges. The Judicial Career Coun-

cil reviews performance evaluations of judges and complaints against persons in the judicial system. The Council is responsible for selecting judges as well as disciplining them in accordance with the law's criteria for sanctions.

On July 22, Jesus Mendoza, cousin of Bamaca case witness Otoniel de la Roca Mendoza, was shot and killed (*see* Section 1.a.).

The Criminal Procedures Code provides for the presumption of innocence, the right to be present at trial, the right to counsel, plea-bargaining, and the possibility of release on bail. Trials are public, allowing victims, family members, and human rights groups to observe the process. Three-judge panels render verdicts. The Criminal Procedures Code provides for oral trials; however, only those attorneys who have graduated since 1994 have had any real training in oral trials. The Code also provides for language interpretation for those who require it; however, this provision was honored rarely due to budgetary and other constraints (*see* Section 5). The Public Ministry, which is semi-independent of the executive branch, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as co-plaintiffs. Lengthy investigations and frequent procedural motions by both defense and prosecution often led to excessively long pretrial detention (*see* Section 1.d.). Courts showed little willingness to exercise discretion in dismissing apparently frivolous or patently invalid motions. As a consequence, parties used such motions as delaying tactics, frequently holding up trials for months or even years.

The Supreme Court's budget for the year was $106 million (852 million quetzals), which was a 9.1 percent increase from 2003.

There were no political prisoners. On August 19, a court acquitted of all charges of involvement in a Social Security Institute embezzlement scandal union leader Rigoberto Duenas, who had been imprisoned for more than 14 months. Several former government officials, imprisoned on corruption charges, including former Vice-President Reyes Lopez and former Minister of Finance Weymann, claimed that the charges against them were politically motivated.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions; however, there were reports that the authorities sometimes disregarded these prohibitions. There were unsubstantiated claims that some military and former military personnel continued to monitor private communications. Former members of security forces were suspected of participating in a number of illegal entries into the homes of human rights defenders during the year. The Public Ministry investigated a number of these cases but failed to identify suspects for prosecution.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and press, and the Government generally respected these rights in practice; however, there were credible reports that members of the media were targets of attacks, threats, and intimidation from unidentified persons. The Human Rights Ombudsman reported 40 reports of intimidation against journalists through October, compared with 90 during 2003.

In addition to regular and open criticism of government policies, the print media publicized communiques from human rights organizations, unions, and groups opposed to the Government and its policies. The press criticized the military and other powerful sectors and also regularly published stories on reputed drug traffickers, official corruption, and clandestine intelligence networks.

During the August 31 land eviction of Nueva Linda, police beat at least three journalists from Nuevo Diario and Xcable and confiscated media equipment (*see* Sections 1.a., 1.c., and 4).

In May, Hector Ramirez and David Hernandez Rubio, sons of journalist Hector Ramirez, who suffered a fatal heart attack during the July 2003 riots, petitioned the IACHR for personal protection following a series of threats against their family (*see* Sections 1.a. and 4). At year's end, the brothers were pressing charges against retired General Rios Montt and former government officials for their father's death. On May 19, two men attacked and beat Hernandez.

The Public Ministry charged two suspects with the June 2003 home invasion of daily El Periodico publisher Jose Ruben Zamora. The case was scheduled to be tried in 2005.

The Government did not restrict academic freedom.

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

Peaceful demonstrations were common. There were numerous protests by a wide variety of groups around the country to demonstrate on a wide variety of issues; however, on at least one occasion, the demonstration became violent. Police usually acted with restraint; however, there were some allegations of unnecessary use of force or, at times, inaction.

On August 13, over 5,000 persons participated in a nationwide "March Against Violence," organized primarily by the office of the Human Rights Ombudsman and the Catholic Church.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. There is no state religion; however, the Constitution explicitly recognizes the separate legal status of the Catholic Church.

The Government did not subsidize religious groups. Members of a religion need not register to worship together. However, the Government requires religious congregations (other than the Catholic Church), as well as other nonreligious associations and NGOs, to register as legal entities to transact business.

Practitioners of Mayan spirituality were sometimes the victims of discrimination and aggression from other religious denominations, particularly conservative protestant denominations in rural areas.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not use it. However, self-imposed exile was an occasional response by citizens who feel threatened or intimidated.

The Constitution provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for those 18 years of age and older. Ballots are secret. Members of the armed forces and police may not vote.

In the second-round runoff presidential election in December 2003, Oscar Berger of the GANA coalition won a 4-year term with approximately 54 percent of the vote. In the period leading up to the elections, at least 29 candidates for lower offices were killed, and many incidents of violence occurred (*see* Section 1.a.). Despite some minor irregularities in the electoral registry, the OAS international observation mission categorized the elections as free and fair, with a 56 percent voter turnout in the first round and 49 percent in the runoff.

Voters elect the 158-member, unicameral Congress every 4 years. Deputies are elected both from districts and from a nationwide list, the latter providing an element of proportional representation. Congress can and does act independently of the Executive.

On April 22, Congress approved legislation that provides for the establishment of a single national identification and voting registration document and the establishment of voting centers outside of the biggest municipalities to increase indigenous participation.

The Government pursued prosecutions of numerous members of the former administration in relation to corruption and money laundering. In May, the authorities arrested Eduardo Weymann, former Minister of Finance, for his alleged role in embezzlement of the Tax Administration (SAT). On July 14, the authorities arrested former Superintendent of the SAT, Marco Tulio Abadio, for embezzlement and money laundering. On July 28, the authorities arrested former Vice President Reyes Lopez on charges of fraud. At year's end, Oscar Dubon Palma, former Controller General, was in prison awaiting trial on fraud charges.

The military budget, traditionally classified, has been vulnerable to embezzlement since there was no public scrutiny of spending. Since February, numerous high-

ranking military officers, including three former Ministers of Defense, have been arrested or investigated for misuse of military funds. The Berger administration declassified 80 percent of the military budget.

In February, former President Alfonso Portillo fled the country to Mexico after allegations were made that he laundered money stolen from the defense budget. At year's end, the Government had not charged Portillo or requested his extradition from Mexico.

In general, there were no mechanisms in place to provide access to official information; however, on January 6, a judge ordered the Ministry of Defense to make available all files from the now-defunct Presidential Military Staff (EMP) to the office of the Human Rights Ombudsman (*see* Section 4). The Ombudsman, with assistance from several human rights NGOs, copied thousands of EMP documents for future analysis to assist in locating children who disappeared during the civil conflict and to learn more about the military's operations in that time period (*see* Section 4).

There were no legal restrictions on the participation of women in the political process. Approximately 44 percent of the 5 million registered voters were women. In November 2003, voters elected 14 women to the 158-member Congress. Women held two seats on the Supreme Court and one rotating alternative position on the Constitutional Court. There were two female ministers in the cabinet, the Minister for Finance and the Minister of Education. There were two female presidential secretaries, one for Women's Issues and one for Social Welfare. Only 8 of 331 mayors were women.

The Constitution provides for equal rights for indigenous people, who make up approximately 43 percent of the population. Some attained high positions as judges and government officials, but indigenous people still were underrepresented significantly in politics due to limited educational opportunities and pervasive discrimination (*see* Section 5). There was one indigenous member in the Cabinet. One of 12 presidential secretaries was indigenous. Of 158 members of Congress, 9 were indigenous. There were 111 indigenous mayors, out of 331. Most indigenous mayors were elected in the northern and western departments of the country.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. However, many NGOs and human rights workers received threats or were intimidated by unidentified persons. Senior government officials met with international human rights monitors; however, some government officials questioned the credibility of both domestic human rights workers and international monitors. While many international human rights organizations and their workers did not enjoy formal legal status, they continued to operate openly.

During the year, several U.N. and OAS representatives visited the country: The U.N. Special Rapporteur on Violence against Women; the U.N. Special Rapporteur on Racism and Discrimination; the OAS Special Rapporteur on Guatemala and Violence against Women; the U.N. Special Rapporteur on the Right to Food; the OAS Special Rapporteur on Prison Conditions; and the OAS Special Rapporteur on Children. During her visit, the OAS Special Rapporteur on Guatemala noted that the country had made considerable improvement during the year, as evidenced by the willingness shown by the authorities to protect and promote human rights.

Human Rights Ombudsman Sergio Morales, elected by Congress in 2002 for a 5-year term, reports to Congress and monitors the rights provided in the Constitution. The Ombudsman's rulings do not have the force of law. The budget assigned to the Ombudsman by Congress, unchanged in 2003 and during the year, was approximately $5 million (40 million quetzals). Upon the expiration of the MINUGUA's mandate in December, the Human Rights Ombudsman's Office assumed MINUGUA's human rights verification function.

The President's Commission on Human Rights (COPREDEH) is charged with formulating and promoting the Government's human rights policy, representing the government for past human rights abuse cases before the IACHR, and negotiating amicable settlements in those cases before the Inter-American Commission on Human Rights. At the beginning of his administration, President Berger named human rights leader Frank LaRue as the Director of the COPREDEH. With the support of the President, COPREDEH accepted responsibility on behalf of the State for all three cases that were heard by the IACHR during the year: The 1982 Plan de Sanchez massacre (*see* Sections 1.a. and 1.e.); the 1993 murder of Jorge Carpio Nicolle; and the 1981 disappearance and presumed murder of youth Marco Molina

Theissen. The OAS noted that the country took steps to increase cooperation on human rights violation committed by the Government in the past. COPREDEH implemented IACHR orders to provide police protection to seven human rights activists.

The number of threats against human rights defenders decreased slightly from 2003, threats against justice workers remained approximately the same as 2003, and threats against journalists decreased by almost half. There were few threats against human rights defenders from January until June. In early July, the number of intimidations increased dramatically and remained high until October, when it fell again. The National Movement for Human Rights, which registers and tracks intimidations against human rights workers and journalists, reported that there were approximately 122 threats and break-ins during the year, in comparison with 125 incidents in 2003. MINUGUA's final report noted, "though human rights defenders work with much more liberty than previously, reports of intimidation continue, although to less of a degree than during the previous administration." During the year, the Special Prosecutor's Office for Human Rights received 47 new cases. Acts of intimidation included anonymous telephoned or written threats, break-ins, and surveillance of workplaces, residences, and vehicular movements. Prosecutors, judges, and witnesses in various human rights cases, notably in the Black Thursday and Plan de Sanchez cases, also reported being the targets of various acts of intimidation (*see* Section 1.e.). Some of the attacks showed sophistication and technical expertise. Like most prosecutions, the majority of human rights cases remained pending for lengthy periods without being investigated or languished in the courts as defense attorneys filed numerous motions and appeals to delay trials.

In February, unknown persons threatened the life of Eloida Mejia Samayoa, President and Legal Representative of Asociacion Amigos del Lago Izabal (Friends of Lake Izabal), which opposed the reactivation of mining activities in Izabal Department. The threats followed the February 10 killing of environmental activist Enrique Alcantara in Puerto Barrios. The Public Ministry was investigating the threats and the death at year's end.

The Legal Center for Human Rights (CALDH) and the Plan de Sanchez community reported approximately 20 incidents of intimidation during the year. CALDH, which provides legal support in human rights cases, supported the members of the Plan de Sanchez community at April 23 and 24 IACHR hearings on the 1982 massacre. In March, a CALDH driver was carjacked and questioned before being released. On September 7, the police captured a suspect for the theft, who remained in prison while the Prosecutors requested a police line-up to enable the driver to identify his assailant. However, in November, a judge denied the request and the Public Ministry planned to release the suspect because of insufficient evidence. CALDH requested police protection from the IACHR, which was approved and coordinated by COPREDEH. In July, intruders twice broke into the home of a CALDH director and, in a separate incident, broke into a CALDH office annex in Guatemala City. In July and September, several witnesses in the IACHR case reported receiving bomb threats and another CALDH employee was carjacked.

On July 7, Lesbiradas, an organization for the promotion of the rights of lesbians, received at least six threatening phone calls. The Public Ministry was investigating the case at year's end.

The Ombudsman received threats throughout the year. On August 9, its Auxiliary Office in Coatepeque closed for 3 days after armed men threatened its personnel regarding the investigation of the recent killing of the mayor of Genova. According to the Ombudsman's spokesperson, the threatened individuals received police protection and reopened the office on August 12.

From August to September, ANN Congresswomen Nineth Montenegro, President of the Human Rights Committee and former director of the Mutual Support Group, received 20 threatening phone calls. Unknown individuals broke the windows of her vehicle, broke into her home, followed her car, and loitered in front of her home.

On October 6, the Quiche Penal Court convicted and sentenced Miguel Xon Morales (cousin of the victim) to 15 years in prison for the April 2003 murder of human rights activist and Mayan priest Diego Xon Salazar (*see* Section 1.a.).

The only witness to the May 2003 killing of Mayan priest Gerardo Camo Manuel was unable to identify a suspect, and the case was closed in September (*see* Section 1.a.). There was no progress in the investigation of the July 2003 home break-in of Norma Maldonado, an activist working with Mama Maquin, a rural indigenous women's group.

A trial of four former security guards and one other suspect for the August 2003 burglary of the Ombudsman's Department of Investigation remained pending at year's end.

In March, the PNC captured Jeronimo Chicoj Saquic, a suspect wanted for the September 2003 killing of Eusebio Macario, a community organizer and founding member of the Council of Ethnic Communities. The Public Ministry theorized that Macario's killing was related to a land conflict. On September 28, the Quiche Penal Court absolved the detainee because of insufficient evidence. While in prison, he allegedly threatened Macario's family.

On June 24, Ever Lopez Gomez and Billy Rene Barrios were sentenced to 9 and 29 years' imprisonment, respectively, for the 2002 killing of Menchu Foundation accountant Guillermo Ovalle (*see* Section 1.a.).

On March 11, a court acquitted three suspects of the 2002 torture and killing of Manuel Garcia de la Cruz, a member of CONAVIGUA.

On February 25, the National Day for the Dignity of Victims of Violence, President Berger publicly announced his support for a 2003 proposal by the Human Rights Ombudsman to establish a U.N. commission (CICIACS) to investigate and prosecute clandestine groups. After two Congressional Committees issued recommendations against CICIACS in early May, President Berger formally requested that Congress return the proposal to the Executive. The President then asked the Constitutional Court to review the proposal. On August 31, the Court ruled that several of CICIACS's elements, principally the provisions for independent investigations and prosecutions by other than designated legal authorities, were incompatible with the Constitution. In September, President Berger met with U.N. Secretary General Kofi Annan to explore possibilities for a CICIACS reconfigured to meet Constitutional Court concerns. On November 19, Vice President Stein sent a letter to Kofi Annan stating that the Government would fight clandestine groups through the Public Ministry and by continuing to seek opportunities to implement CICIACS.

In August, the Attorney General named Betty Gudiel as Special Prosecutor for Crimes against Human Rights Defenders. The staff of the office was cut by more than half during the year. Despite these cutbacks, the office made significant progress on numerous proceedings and won several convictions during the year (*see* Section 1.e.). The unit's staff reported receiving support for cases from the Public Ministry leadership.

On December 31, MINUGUA closed its offices after 10 years of monitoring implementation of the human rights provisions of the Peace Accords. Its final report in August concluded that the country had "laid a firmer foundation on which to construct a better future." In recent years, MINUGUA staff had trained the Ombudsman to take over many of its monitoring functions, especially on agrarian and discrimination issues.

At year's end, Congress had not ratified the December 2003 agreement to establish a local office of the United Nations High Commissioner for Human Rights (UNHCHR). The agreement went to Congress for ratification in March. Though the Human Rights Committee recommended the establishment of the office, the Foreign Relations Committee recommended against the project. To overcome Congressional objections, the Executive renegotiated the agreement with the UNHCHR in December. If ratified, the UNHCHR office would monitor the general human rights situation in the country and report annually on its activities and make recommendations to the Commission.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution states that all persons are free and equal in dignity and rights and that the State must protect the life, liberty, justice, security, peace, and development of all citizens. However, in practice, the Government frequently was unable to enforce these provisions, due to inadequate resources, corruption, and a dysfunctional judicial system (*see* Sections 1.c. and 1.e.).

Women.—Violence against women, including domestic violence, remained common among all social classes. There was a significant increase in reports of women tortured, disappeared, and killed (*see* Sections l.a. and l.c.). The Law on Domestic Violence provides that the Public Ministry, the national police, family courts, legal clinics, and the Human Rights Ombudsman's Office may receive complaints of domestic violence. However, domestic abuse itself is not punishable by prison sentences, and Public Ministry prosecutors noted that the law allowed them to charge abusers with assault only if bruises from the abuse remained visible for at least 10 days. The law provides for the issuance of restraining orders against alleged aggressors, police protection for the victims, and the law requires the PNC to intervene in violent situations in the home. However, women's groups noted that few officers had any training in victim' assistance or working with domestic violence. The Program for Prevention and Eradication of Intrafamily Violence (PROPREVI), a government program under the First Lady's Secretariat of Social Work, reported that it received

approximately 12 calls a day via its emergency hotline from battered women and children.

The Public Ministry reported receiving almost 10,000 complaints of family violence against women and children in Guatemala City during the year; only approximately 370 cases went to trial. In accordance with the Law on Domestic Violence, 1,364 orders of restraint against domestic violence aggressors and police protection for victims were issued. Full investigation and prosecution of domestic violence and rape cases usually took an average of 1 year, and prosecutors noted that half of victims of domestic violence who filed complaints never returned to pursue their cases after their initial visit to the Public Ministry. The Network for Non-violence Against Women estimated that 90 percent of incidents went unreported.

The office of the Ombudsman for Indigenous Women, led by Maria Zapeta Mendoza, provided social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. It also coordinated and promoted action by both government institutions and NGOs to prevent violence and discrimination against indigenous women; however, it lacked the human resources and logistical capacity to perform its functions on a national level. The Ombudsman's budget was $221,250 (1.77 million quetzals). Like most government agencies, it was forced to reduce spending by 20 percent because of fiscal constraints. The office handled 440 cases from January until August and 3,159 cases since 2002, including labor conflicts and domestic violence.

Sexual offenses remained a problem. The Prosecutor's Office reported receiving 749 cases of rape and sexual assault between January and October in Guatemala City. Eighty four of these cases went to trial: 68 aggressors were convicted and sentenced to an average of 6 to 20 years in prison; 11 persons were absolved; and 5 cases were settled out of court. Over 3,000 rapes were reported countrywide. The Supreme Court received 1,777 rape cases country-wide from January until September. UNICEF observed that rape victims sometimes did not report the violations for lack of confidence in prosecutions and fear of reprisals.

The Penal Code defines rape and aggravated rape as crimes and establishes penalties of 6 to 50 years. The Penal Code does not define sexual assault as a crime. Prosecutors from the Special Unit for Crimes against Women noted that reports of rapes had increased by 30 percent over the past 4 years. Some observers believed that increases in reported rapes over the past 5 years did not reflect an increase in the number of rapes committed but rather an increased willingness on the part of victims to come forward and improved record-keeping of crime statistics. Police have little training or investigative capacity for investigating or assisting victims of sexual crimes.

Sexual harassment is not illegal, so there were no accurate estimates of incidents. However, human rights and women's organizations reported that harassment was widespread, especially in industries in which workers are primarily women, such as the maquila sector.

Prostitution is not illegal; however, procuring and inducing a person into prostitution are crimes that can result in either fines or imprisonment, with heavier penalties if minors are involved. Trafficking in women and minors, primarily for the purpose of prostitution, is illegal and was a more broadly recognized problem (*see* Section 5, Trafficking).

The PNC reported that approximately 527 women were killed during the year, compared with 383 in 2003. The percentage of killings of women in comparison to total killings rose from 11.5 percent in 2003 to 12 percent during the year. Some victims were tortured before death, and others had their corpses mutilated. In April, then Minister of Government Arturo Soto created a PNC taskforce to investigate killings of women.

The Constitution asserts the principle of gender equality; in practice, however, women faced job discrimination and were less likely to hold management positions. The 2002 National Study on Income and Spending showed that indigenous women earned 58 percent of what indigenous men earned and nonindigenous women earned 71 percent of what non-indigenous men earned. Some women were subjected to preemployment pregnancy tests. Women were employed primarily in low-wage jobs in the textile and apparel industries, agriculture, retail businesses, and the public sector. More women than men were employed in the informal sector of the economy, where pay and benefits generally were lower. Women may legally own, manage, and inherit property on an equal basis with men.

More than 50 percent of urban girls and 81 percent of rural girls dropped out before completing high school, and an estimated 70 percent of adult women never received formal education. UNICEF's 2003 report indicated that the female adult literacy rate was 80 percent that of males. Over 10,000 women were enrolled in universities in the pursuit of degrees in medicine and law.

The Secretariat for Women's Affairs advises the President on the coordination of policies affecting women and their development.

Children.—The Constitution charges the Government with protecting the physical and mental health, as well as the moral well-being, of minors; however, the Government did not devote sufficient resources to ensure adequate educational and health services for children. While fiscal considerations forced the Government to cut overall spending by 30 percent, it managed to increase spending on education; health spending remained approximately the same. Approximately 2 percent of the country's GDP was devoted to education, and less than 1 percent to health.

The Constitution provides for compulsory education for all children up to the sixth grade. However, less than half the population has received a primary education. According to the Ministry of Education, in 2003, only 11 percent of children who registered for primary school passed their respective grade. The UNDP's 2003 Human Development Report estimated that only 40 percent of children who enter primary school finish their third year and only 30 percent are promoted beyond sixth grade. Completion rates were even lower in rural and indigenous areas. The average education level attained varied widely based on background and geographic region. The average non-indigenous child received 5.6 years (boys received 6 years compared with 5.3 years for girls). Indigenous children, who are also more concentrated in rural areas, received an average of 2.2 years (boys 2.8 and girls 1.6). The Ministry of Education attempted to improve these indicators by granting special scholarships to girls and working or orphaned children.

UNICEF's 2003 Report estimated the under-5 mortality rate at 58 per 1,000 live births. Public health analyses showed that 60 percent of the cases of infant mortality and 76 percent of the cases of maternal mortality were preventable through attention to basic health and environmental measures that have been neglected. In 2003, the Ministry of Health provided services to 87 percent of children under 15 and 58 percent of women over 15. According to the UNDP, an estimated 20 percent of the population did not have access to any type of institutional health services. Boys and girls had equal access to medical care. In December, the U.N. reported that 24 percent of the population suffered from malnutrition, up from 16 percent 10 years earlier.

Child abuse remained a serious problem (*see* Section 1.c.). The Public Ministry reported 798 cases of child abuse during the year. In May, the Congressional Committee on Women and Children created a Commission for Children and Youth, made up of government and NGO representatives, to promote children's issues, in accordance with the Child Protection Law of June 2003. The Social Secretariat for the Welfare of Children has oversight for the children's welfare programs, treatment and training for children, and special education assistance for children. The Secretariat provided shelter and assistance to children who were victims of abuse; however, these children sometimes were placed with other youths who had committed crimes (*see* Section 1.c.). Because of overload in the public welfare system, family courts also referred 350 abused children to Casa Alianza in 2003–04, and sent many children to other NGOs. The Special Prosecutor's Office for Women included a unit that investigated only child abuse cases.

Child prostitution was a problem (*see* Section 5, Trafficking).

Child labor was a problem. According to the International Labor Organization (ILO), 23 percent of children must work to survive (*see* Section 6.d.).

The internal conflict left approximately 200,000 orphans. Approximately 10,000 children were members of street gangs. Credible estimates put the number of street children at 5,000 nationwide, approximately 3,000 of them in Guatemala City. Most street children ran away from home after being abused. Casa Alianza reported that increased gang recruitment decreased the number of street children in the capital. During the year, Casa Alianza reported that 173 children were killed in Guatemala City from January until August 31, compared with 585 throughout the country in 2003. Criminals often recruited these children into thievery, prostitution, or drug rings.

The Government and a number of NGOs operated youth centers; however, the funds devoted to them were not sufficient to address adequately the problem. The Government maintained one shelter each for girls and boys in Guatemala City. These shelters provided housing for the homeless and incarceration for juvenile offenders.

Trafficking in Persons.—The law prohibits trafficking in persons for purposes of prostitution; however, the government's failure to codify prohibitions on broader trafficking issues inhibited law enforcement efforts to fight this growing practice.

The Public Ministry prosecutes traffickers under four sections of the Penal Code, three of which carry fines from $187 to $1,875 (1,500 to 15,000 quetzals) and a

fourth which specifically criminalizes trafficking for prostitution and imposes punishments from 1 to 3 years in prison and a fine of $250 to $625 (2,000 to 5,000 quetzals). Though the maximum penalty for trafficking is prison time, magistrates have imposed no more than a fine. Throughout the year, the Ministry of Foreign Affairs, some members of Congress, and NGOs have lobbied for improved legislation with stiffer sanctions. The Ministry of Foreign Affairs led an inter-institutional working group on trafficking in persons to improve agency coordination and develop new legislative proposals to combat the practice; meetings were held at least monthly.

In February, the Public Ministry formed a special unit within the Special Prosecutor's Office for Crimes against Women to investigate trafficking cases. The Office conducted 20 bar raids during the year, with assistance from the Special PNC Unit for Trafficking in Persons and observers from Casa Alianza. They opened 45 cases against traffickers, and by year's end, 6 traffickers had been convicted of sexual exploitation of minors (a separate offense) and fined $375 to $800 (3,000 to 6,000 quetzals). The Public Ministry rescued 16 minor victims of trafficking, who were provided shelter by Casa Alianza.

On March 24, the Government signed an agreement of cooperation with Mexico on the protection of minor victims of trafficking and smuggling on the Mexican border. Repatriation agreements for minor victims of trafficking also exist with El Salvador, Nicaragua, Honduras, Costa Rica, and Panama.

The country is a source, transit, and destination country for Guatemalan and other Central American women and children trafficked for the purposes of sexual exploitation. One NGO report identified 600 to 700 minors in centers of prostitution across the country. To a lesser extent, there were reports (but no reliable estimates) of forced labor trafficking, mainly involving children used in begging rings in Guatemala City.

Trafficking was especially a problem in the capital and in towns along the borders with Mexico and El Salvador. Child migrants who failed to cross the border into Mexico often remained in the country and resorted to or were forced into prostitution. Many women and children also were brought into the country from El Salvador, Nicaragua, and Honduras by organized rings that forced them into prostitution. The primary target population for sexual exploitation was minor boys and girls or young women from poor families. The traffickers often approached these individuals with promises of economic rewards, jobs in cafeterias or beauty parlors, or jobs in other countries. The means of promotion included flyers, newspaper advertisements, and verbal or personal recommendations. Traffickers also used force, coercion, fraud, and deception.

Brothel owners often were responsible for transporting and employing victims of trafficking. Traffickers of persons frequently had links to other organized crime, including drug trafficking and migrant smuggling.

There were credible reports of police and immigration service involvement and complicity in trafficking of persons. In a 2002 study by ECPAT (the local chapter of the NGO End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes), some minor victims of trafficking reported that immigration officials took bribes from traffickers, gave the victims falsified identification papers, and allowed them to cross borders. There were credible reports that brothel owners allowed police and migration officials to have sex with minor victims without charge. On May 4, police arrested a senior police official, Rudy Giron Lima, for his involvement in kidnapping (*see* Section 1.b.). Investigators learned that he co-owned three brothels, and underage prostitutes were found at all three.

The Secretariat for Social Welfare, a government institution, had one shelter that housed victims of trafficking and offered social casework, job training, and counseling.

Immigration officials generally deported overage trafficking victims but did not treat them like criminals. From February to December, Immigration officials deported 468 women, who were found during bar raids, back to Honduras, Nicaragua, and El Salvador. Victims were not prosecuted and were not required to testify in cases against traffickers.

The Secretariat of Social Welfare provided educational materials on child sexual exploitation to the public primary and secondary school system. Immigration also launched a campaign at all border crossings to educate the public on the risks of trafficking

The Government released minor trafficking victims rescued in bar raids to the custody of Casa Alianza, which provided them with shelter, medical treatment, psychological counseling, and job training. A number of other NGOs provided similar services and lobbied for legislation, protection of victims, and prevention of trafficking.

Persons With Disabilities.—The Constitution provides that the State should protect persons with disabilities. The Law for Protection of the Elderly and the Law on Attention to Disabled Persons mandate equal access to public facilities, prohibit discrimination based on disability, and provide other legal protections. The laws stipulate equal opportunity for persons with disabilities in health, education, work, recreation, sports, and cultural activities. They also provide that all persons with disabilities receive the benefits of labor laws and social security and have the right to work. In addition, the laws provide for equal educational opportunities, mandatory building access codes, and the right to equal pay. However, persons with physical disabilities suffered discrimination in education and employment practices, and few resources were devoted to combat this problem. Persons with disabilities have limited access to health care, recreational facilities, and work opportunities. A report by the International Disability Rights Monitor noted that the Government discriminated against persons with disabilities by not providing adequate protection.

Educational resources for those with special needs were scarce, and the majority of the universities were not handicapped accessible. The National Hospital for Mental Health, the principal health care provider for persons with mental illness, lacked basic supplies, equipment, hygienic living conditions, and adequate professional staffing. During the year, the Ministry of Education provided services to 4,187 children with special needs. Of these, 160 were in mainstream schools, and the rest attended 16 special education schools.

The National Council for the Disabled, composed of representatives of relevant government ministries and agencies, met regularly to discuss initiatives; however, no resources were devoted to the implementation of their recommendations.

Indigenous People.—The Constitution, recognizing that the country is composed of diverse ethnic groups, obliges the Government to recognize, respect, and promote the lifestyles, customs, traditions, social organization, and manner of dress of indigenous people.

Indigenous people constitute 43 percent of the population; however, they remained largely outside the country's political, economic, social, and cultural mainstream. A World Bank study conducted during the year stated that 76 percent of the indigenous population lived in poverty, in comparison with 41 percent of the non-indigenous population. There was no single indicator of indigenous status, but there were at least 22 separate Mayan ethnic groups, each with its own language. In addition, there was an indigenous Xinca community of some 6,000 persons. The Garifuna, descendents of Africans brought to the Caribbean region as slaves who later migrated to South and Central America, were a separate minority group.

MINUGUA's final report noted that the number of bilingual teachers and judicial workers was increasing gradually, but bilingual classes were available still only to 10 percent of school-age indigenous children. A number of judicial rulings confirmed the right to practice indigenous spirituality and wear typical clothing. The Presidential Commission Against Discrimination and Racism, created in 2003 and confirmed by the Berger administration, evaluated the state's actions and made recommendations to reduce discrimination. The majority of the provisions regarding indigenous rights were incomplete in the 2000–04 timetable for the implementation of the Peace Accords. During the year, the Government took some steps to implement programs to include bilingual and intercultural components in education; however, few concrete changes had taken place at year's end.

In December 2003, the Congress passed the "Law of Languages," which mandated the use of Mayan languages in public sectors like health, education, and justice. Also in December 2003, the Government gave the Academy for Mayan Languages the frequency for a television channel and a large building that was formerly occupied by the military. In addition, the Government gave the Academy a 2004 budget of $3.1 million (25 million quetzals), a large increase from previous years, to aid the strengthening of the use of Mayan languages and their use in the public domain. In December, the President and Vice-President participated in the official opening of a project to construct a Mayan University, that had been mandated in the Peace Accords.

The commissions established to discuss the implementation of constitutional provisions relating to indigenous rights met during the year to formulate recommendations to the Government regarding protection of indigenous culture, languages, traditions, lands, and sacred sites.

The Labor Ministry had a Department of Indigenous People to investigate cases of discrimination and promote implementation of International Organization of Labor (ILO) Convention 169 on the rights of indigenous workers. Although the Department had no separate budget and only four employees and, for lack of resources, did not investigate any discrimination claims, it acted as a representative for indige-

nous rights. As an example, the office worked to represent local indigenous interests in public and private sector discussions of potential open-pit mines in rural areas.

Rural indigenous people had limited educational opportunities and fewer employment opportunities. For this reason, indigenous men constituted a high percentage of the military's ranks. Many indigenous people were illiterate, and approximately a third did not speak Spanish; more than half of indigenous women were illiterate; and a disproportionate number of indigenous girls did not attend school (*see* Section 5, Women and Children). The Government devoted less than 10 percent of the total budget to bilingual education, and the Ministry of Education had yet to implement the recommendations made by the Commission on Educational Reform.

Indigenous people arrested for crimes often were at a disadvantage due to their limited comprehension of Spanish. The Criminal Procedures Code states that the courts must provide interpretation for anyone requiring such services during criminal proceedings; however, reports continued that indigenous people did not have equal access to the justice system. The Public Ministry concentrated 16 interpreters in former conflict areas of the country, and the Public Defender's Office employed 9 bilingual public defenders and assigned them to areas where they could serve as translators in addition to defending their clients. Despite government efforts, there were 63 judges who spoke Mayan languages in 561 tribunals around the country. The number of court interpreters increased from 22 in 2003 to 62 during the year and the Supreme Court reported that the judicial system had 569 employees who spoke indigenous languages. Though bilingual judicial personnel were assigned often to areas where their second languages were not spoken, NGOs noted that the Court had made an effort to improve bilingual employee distribution during the year. Only 14 percent of police officers were indigenous. Better efforts were made to assign these officers to towns where their language skills could be used, and approximately 75 percent of them worked in the geographic area of their particular linguistic competency.

Two groups worked to represent indigenous people. A national Congress of Mayan People created the National Assembly of Representatives of the Mayan People, which selected representatives from 16 departments and installed the members in February. The National Assembly entered into dialogue with the National Council of Mayan Peoples to unify positions on indigenous demands of the Government.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Labor Code provide for freedom of association and the right to form and join trade unions; however, in practice, enforcement of the Code remained weak and ineffective. All workers have the right to form or join unions, including public sector employees, with the exception of members of the security forces. Less than 3 percent of the work force was unionized

Legal recognition of a new industry-wide union requires that the membership constitute one-half plus one of the workers in an industry. Labor activists considered this requirement a nearly insurmountable barrier to the formation of new industry-wide unions.

The law prohibits retribution for forming unions and for participating in trade union activities; in particular, the Labor Code prohibits employers from firing workers for union organizing and protects them from being fired for 60 days following notification to the Labor Ministry that a union is being formed. Thereafter, they can be fired for cause, unless they are members of the union's executive committee. However, enforcement of these provisions was weak. Many employers routinely sought to circumvent Labor Code provisions to resist unionization or simply ignored both the provisions themselves and judicial orders to enforce them. An ineffective legal system and inadequate penalties for violations hindered enforcement of the right to form unions and participate in trade union activities in the past.

There were credible reports of retaliation by employers against workers who tried to exercise internationally recognized labor rights. For example, in June, the Secretariat of Social Welfare fired 22 individuals the day after they submitted a list of members of a fledgling union. Though the Secretariat cited budget constraints and poor work as the reason for the dismissals, it hired replacements who received the same pay and benefits. A court ordered the reinstatement of the workers, but the Secretariat appealed the decision. Judicial orders are not binding until appeals are settled, which can take years. The Secretariat rehired two of the individuals after they resigned their union membership. The case was pending at year's end.

The most common violation of freedom of association was the dismissal of workers for unionizing activity. The Ministry of Labor received 2,972 complaints of illegal firings in the first half of the year, approximately equal to the number during the same period in 2003. Some workers who suffered illegal dismissal took their cases

to the labor courts and won injunctions ordering reinstatement. The labor courts reported issuing 532 such orders from January to September. Appeals and re-appeals by the employers, along with legal recourse such as re-incorporation as a different entity, often prolonged proceedings. Like courts elsewhere in the country, the labor courts often did not dismiss apparently frivolous appeals, nor were their decisions enforced. According to Labor Ministry officials, the labor courts vindicated the majority of workers' claims against employers; however, employers complied with the court decisions in only a small number of cases and rarely were disciplined for ignoring legally binding court orders.

Employees were reluctant to exercise their right of association for fear of reprisal by employers, according to labor leaders and advocates. Workers had little confidence that the responsible executive and judicial institutions would effectively protect or defend their rights if violated. In addition, the weakness of labor inspectors, the failures of the judicial system, poverty, the legacy of violent repression of labor activists during the internal conflict, the climate of impunity, and the long-standing hostility between the business establishment and independent and self-governing labor associations all constrained the exercise of worker rights.

Labor leaders reported death threats and other acts of intimidation. A 3-person Special Prosecutor's Office for Crimes Against Unionists and Journalists accepted 45 new union-related cases during the year, thereby raising its total case load to over 200. Prosecutors secured only one conviction, a 10-year prison sentence for a homicide that occurred in 2003. Both labor leaders and the Special Prosecutor for Union Leaders reported that there were no killings of union leaders during the year.

An active "solidarismo" (solidarity) movement claims to have approximately 170,000 members in approximately 400 companies. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to choose between them or to belong to both. The Government viewed these associations as civic organizations that need not interfere with the functioning of trade unions. The Labor Code stipulates that trade unions have an exclusive right to negotiate work conditions on behalf of workers; however, unions charged that management promoted solidarity associations to avoid the formation of trade unions or to compete with existing labor unions. Representatives of most organized labor groups criticized these associations for not permitting strikes, having inadequate grievance procedures, and for displacing genuine, independent trade unions with an employer-dominated structure.

From January until September 10, the Labor Ministry granted legal status to 45 new unions. One thousand six hundred fifty-six unions have been registered in the country; however, only 379 were active (229 in the public sector and 132 in the private sector). These unions represented a total membership of more than 56,000, however, many unions did not submit their membership lists to the Government. Some parties estimated actual union membership to be in excess of 100,000, although no official registry exists. Ministry of Labor sources noted that the 56,000 number corresponded to 3 percent of the labor force in the formal sector. The registered unions were generally independent of government and political party domination.

Despite efforts to restructure and modernize the labor court system, the system remained ineffective. There are 28 labor courts: 7 in the capital and 21 outside it. An additional nine courts address labor issues, primarily appeals, as part of their jurisdiction. The weakness of the judicial system as a whole, the severe shortage of competent judges and staff, a heavy backlog of undecided cases, and failure to enforce effectively court rulings all contributed to the labor courts' lack of credibility and effectiveness. The small number of competent and motivated labor inspectors and the lack of training and resources devoted to detecting and investigating Labor Code violations compounded the weakness of the labor courts.

The Ministry of Labor continued efforts to improve the labor inspection system by increasing the number of positions of labor inspectors; supervising and evaluating inspectors' performance; computerizing the case filing system; creating a new inspection Unit for Maquila workers and Unit for Minors; and hiring three attorneys to reopen the Legal Unit in inspections. In July, the Ministry of Labor fired approximately 25 percent of its labor inspectors for cause. By August, it had hired replacements for most of the dismissed inspectors.

Workers illegally invaded the Maria Lourdes plantation in Genova Costa Cuca, Quetzaltenango in November 2003 to recoup wages they claimed were never paid. In June, the farm's administrator and head of private security allegedly raped a 15 year-old girl and beat her 13 year-old brother. Some labor leaders claimed that the attack was an attempt to intimidate the workers into leaving voluntarily. Though the children reported the attack and identified both men to the Prosecutor in Quetzaltenango, no progress had been made in the case.

b. The Right to Organize and Bargain Collectively.—Workers have the right to organize and bargain collectively; however, the small number of unionized workers limited the practice of collective bargaining. The Labor Code requires that union members must approve a collective bargaining agreement by simple majority.

Twenty five percent of the workers in a factory or business must be union members for collective bargaining to take place. Management and labor honored collective contracts at some firms. In others, management, and sometimes labor, chose to ignore selected provisions of binding collective bargaining agreements. According to the Ministry of Labor, 14 collective bargaining agreements were registered from January to September, covering nearly 1,400 workers. Most workers, including those organized in trade unions, did not have collective contracts documenting their wages and working conditions, nor did they have individual contracts as required by law. According to the Labor Ministry, only 3.3 percent of the workforce had a contract legally registered with the ministry. During the year, 137,168 individuals filed work contracts with the Ministry of Labor.

Workers have the right to strike; however, the very low level of unionization and procedural hurdles made legal strikes rare. The Labor Code requires approval by simple majority of a firm's workers to call a legal strike. The Labor Code requires that a labor court consider whether workers are conducting themselves peacefully and have exhausted available mediation before ruling on the legality of a strike. The Labor Code empowers the President and his cabinet to suspend any strike deemed "gravely prejudicial to the country's essential activities and public services," an authority that the Government rarely used. Employers may suspend or fire workers for absence without leave if authorities have not recognized their strike as legal. The strike regulation law calls for binding arbitration if no agreement is reached after 30 days of negotiation.

There were no legal strikes during the year, although teachers, farm workers, and labor groups in the formal and informal sectors held illegal or unofficial work stoppages.

There are 52 collective bargaining agreements (covering more than 14,000 unionized workers and many thousands of non-unionized workers) between employers and workers in a variety of sectors. Although public sector workplaces dominated the list of collective bargaining agreements, agricultural, textile, and other manufacturing sectors were also represented.

Labor laws and regulations apply throughout the country, including the few export processing zones (EPZs). Maquilas operated under an EPZ-like regime, although they were not located in distinctly established areas. Unions have had minimal success organizing workers in EPZs and in the maquila sector. Only three enterprises in the maquila sector have registered unions, two of which have achieved collective bargaining agreements. Organizing activities were affected by employer intimidation and pressure, according to labor leaders and activists.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children; however, some women and minors were trafficked for the purpose of sexual exploitation (*see* Section 5). There were reports that employers sometimes forced workers to work overtime, often without the premium pay mandated by law (*see* Section 6.e.). Forced or compulsory labor by children generally did not occur; however, the ILO reported that children worked as domestics in private homes without labor law protections (*see* Section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Constitution bars employment of minors under the age of 14 without written permission from the Ministry of Labor. The informal and agricultural sectors regularly employed younger children, usually in small family enterprises. Economic necessity forced most families to have their children work to supplement family income, particularly in rural and indigenous communities. According to the ILO, 23 percent of minors under age 18 worked during the year, up from 20 percent in 2000. The ILO estimated that 507,000 children age 7 to 14 years (20 percent of this age group) were engaged in work. The Ministry of Labor estimated that in the 7 to 14 age group, almost twice as many boys work as girls, and almost twice as many indigenous children work as non-indigenous. Most minors worked at household chores, in subsistence agriculture, in family-run enterprises, and elsewhere in the informal economy.

The law prohibits minors from work in establishments where alcoholic beverages are served, from work in unhealthy or dangerous conditions, and from night work and extra hours (the legal workday for persons younger than 14 is 6 hours; for persons 14 to 17 years of age it is 7 hours). A joint ILO/UNICEF/World Bank report found that, despite these protections, child laborers worked on average 47 hours per week.

The ILO's International Program on the Elimination of Child Labor (IPEC) launched projects to combat child labor in the fireworks industry, in the production of gravel, in the growing of coffee and broccoli, in domestic service, and in the commercial sex industry. The Labor Ministry estimated that approximately 3,000 children were employed in the illegal cottage-based fireworks industry; approximately 10 percent of them in factories, while others, under the age of 14, typically worked at home on piecework taken in by their families. Accidents occurred regularly in the fireworks industry. According to press reports, an average of 30 persons per year, the majority minors, suffered burns and amputations from accidents in the fabrication of fireworks.

Laws governing the employment of minors were not enforced effectively due to the weakness of the labor inspection and labor court systems. The Labor Ministry granted 20 work permits for minors under age 14 between January and August 23, compared with 119 in all of 2003. Many children under the age of 14 worked without legal permission and were vulnerable to exploitation. Their illegal status made them ineligible to receive social benefits, social insurance, vacations, or severance pay, and they often earned salaries below the minimum wage.

A 2002 ILO report, based on a National Statistic Institute survey, indicated that 38,878 children worked as domestics in private homes. Domestic employees are exempt from many labor law protections. In the capital, three-quarters of the children worked 13 to 16 hours a day, and their average monthly salary was approximately $51 (395 quetzals). Many domestic workers suffered psychological mistreatment, including sexual abuse.

The Child Worker Protection Unit within the Ministry of Labor enforces restrictions on child labor and educates minors, their parents, and employers on the rights of minors in the labor market. The National Commission for the Elimination of Child Labor developed an operational plan to implement the 2000 National Plan to Eradicate Child Labor.

In its 2003 country report, the Inter-American Commission on Human Rights noted that, with ILO-IPEC backing, the Government offered scholarships and free meals during the year to encourage families to send to school children who had formerly worked in the broccoli, coffee, gravel, and fireworks industries.

e. Acceptable Conditions of Work.—The law sets minimum wages. Noncompliance with minimum wage provisions in the rural and informal sectors was widespread. A 2001 government survey, the most recent available, noted that only 60 percent of the working population received the minimum wage or more. Advocacy groups, focused on rural sector issues, estimated that more than half of workers engaged in day-long employment in the rural sector did not receive the wages, benefits, and social security allocations required by law.

The Ministry of Labor oversees a tripartite committee that makes recommendations for increases in the minimum wage. In the event that agreement is not reached in the tripartite commission, the Government may decree such increases based on recommendations of the Labor Minister. The daily minimum wage was $4.86 (38.6 quetzals) in agriculture and $4.96 (39.7 quetzals) in commerce. The law requires an incentive bonus be added to this minimum wage for all hours worked, effectively raising the daily minimum wage to $5.63 (45 quetzals) in agriculture and $5.79 (46.3 quetzals) in commerce.

On June 30, a new minimum wage came into force that provided increases of 21 percent for agricultural workers and 16 percent for non-agricultural workers.

The minimum wage did not provide a decent standard of living for a worker and family. In its 2003 Human Development Report, the UNDP estimated that 57 percent of the population lived below the poverty line and 21.5 percent in extreme poverty. The Ministry of Labor conducts inspections to monitor compliance with minimum wage provisions; however, the Ministry of Labor lacked the resources to enforce the minimum wage law adequately.

The legal workday is 8 hours and the workweek is 48 hours; a tradition of longer hours remained in place in certain sectors. These limits do not apply to domestic workers. For day shift workers, the standard 6-day workweek is 44 hours; for night shift workers, it is 36 hours; for swing shift workers, it is 42 hours. Time-and-a-half pay is required for overtime work. The Labor Code requires a weekly paid rest period of at least 24 hours. Trade union leaders and human rights groups charged that employers sometimes forced workers to work overtime, often without legally-mandated premium pay. Labor inspectors reported uncovering numerous instances of such abuses, but the lack of stiff fines or strong regulatory sanctions, as well as inefficiencies in the labor court system and enforcement of court orders, inhibited adequate enforcement of the law.

Occupational health and safety standards were inadequate and enforcement remained weak. During the year, the Ministry of Labor participated in a number of regional international initiatives intended to sensitize employers and workers to health and safety risks in the workplace. The Labor Ministry provided training courses for labor inspectors in health and safety standards and gave such training priority.

When serious or fatal industrial accidents occurred, the authorities often failed to investigate fully or assign responsibility for negligence. Employers rarely were sanctioned for failing to provide a safe workplace. Legislation requiring companies with more than 50 employees to provide on-site medical facilities for their workers was not enforced; however, most large employers did provide such facilities for their employees. The fireworks industry was particularly hazardous (*see* Section 6.b.). Workers have the legal right to remove themselves from dangerous work situations without reprisal. However, few workers were willing to jeopardize their jobs by complaining about unsafe working conditions.

Human rights and labor organizations alleged that women workers, particularly in the domestic and maquila manufacturing sector, suffered discrimination and sexual harassment.

Maquilas, which employed approximately 108,000 persons, the vast majority of whom were female, often forced women to reveal whether they were pregnant as a condition of employment.

GUYANA

The Co-operative Republic of Guyana has a multiparty political system based on proportional representation. Voters indirectly elect the President to a 5-year term of office. The President appoints a prime minister and a cabinet. In March 2001, citizens voted in a generally free and fair national election to reelect the People's Progressive Party (PPP) and its Civic (C) partner. Incumbent Bharrat Jagdeo received his own mandate for a 5-year term as President. Social unrest and occasional violence marred the post-election period, with the main opposition party alleging that election procedures violated the Constitution. Despite some technical problems, international observers considered the elections free and fair. The country's two major political parties were based predominantly along ethnic lines, with demography favoring the Indo-Guyanese dominated PPP/C. The judiciary, although constitutionally independent, was inefficient and often appeared subject to the influence of the executive branch.

The Guyana Defense Force (GDF) is a professional military responsible for national defense, internal security, and emergency response. The GDF reports directly to the Minister of Defence who is the President. The Defense Board, chaired by the President, has oversight responsibility for the GDF. The Guyana Police Force (GPF), which reports to the Ministry of Home Affairs, has the authority to make arrests and is responsible for maintaining law and order throughout the country. The civilian authorities maintained effective control of the security forces. Some members of the security forces allegedly committed human rights abuses.

The economy was based on a mix of private and state enterprises. The 2000 census registered a population of 749,000. Primary agricultural and mineral products (rice, sugar, bauxite, gold, fish, and timber) dominated the economy. There were severe shortages of skilled labor, and the economy was constrained by an inadequate and poorly maintained infrastructure for transportation, power distribution, flood control, and communications. Government estimates placed real economic growth at 2.5 percent during the year. Inflation was low; however, the latest (2001) U.N. Development Program (UNDP) living conditions survey showed that 35 percent of the population lived in poverty.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Human rights groups and the media asserted that the police continued to commit unlawful killings, and police abuse of suspects continued to be a problem. The authorities took some steps to investigate abuses, but pledges to reform the operations of the police have yet to yield definitive results. Prison conditions remained poor, and lengthy pretrial detention continued to be a problem. Judicial system inefficiencies resulted in long delays in trials. Police infringed on citizens' privacy rights. Violence against women and children; trafficking in persons; societal discrimination against women, indigenous Amerindians, and persons living with HIV/AIDS; incidents of discrimination stemming from the racial

tensions between Indo-Guyanese and Afro-Guyanese; and child labor in the informal sector were all problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings; however, human rights groups asserted that police continued to commit unlawful killings. In most cases, the police shot the victims while attempting to arrest them or while a crime was being committed. Although police were seldom prosecuted for unlawful killings, the new Commissioner of Police has brought charges against officers implicated in such abuses and has instigated greater efforts to investigate and hold police officers accountable. The Constitution broadly defines justifiable use of lethal force.

On April 24, Sherman George was shot and killed by a plain-clothes policeman. Police maintained that George pulled out a toy gun and that the policeman was forced to fire. The family claimed that the gun was planted at the scene, and others said that the man was raising his arms to surrender.

On September 7, Curtis Lorenzo was shot and killed after escaping from the Mahdia lock-up where he was incarcerated pending charges of abduction and rape of a minor. The officer reportedly fired the fatal shot accidentally. An inquiry remained pending.

On September 8, police shot and killed accused murderer Kelvin Nero as he was walking on the street. Witnesses claimed that police fired three shots; some accounts related that Nero was first shot in the leg, then beaten, and then shot two more times. An investigation was launched.

A preliminary inquiry determined that two officers charged with the 2003 killing of University of Guyana student Yohance Douglas should stand trial for his murder. No trial date has yet been set, and one officer has appealed the decision to stand trial.

There were no new developments in the allegations of wrongdoing related to the killings by police in previous years, including the police shootings of Errol Immanuel, Charles Hinckson and Marlon Wilson, and the beating death of Albert Hopkinson, all in 2003.

Some killings, such as the January 5 killing of Shafeek Bacchus and the June 24 killing of George Bacchus, were attributed to an organized hit squad that originated as a vigilante response to the 2002–03 crime wave. Prior to his death, George Bacchus alleged that he had been a member of the so-called Phantom Squad and that Home Affairs Minister Ronald Gajraj directed the group. In July, Minister Gajraj went on leave to facilitate the work of a Commission of Inquiry regarding these allegations, and the inquiry remained ongoing at year's end.

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

In April, an Iranian Shiite cleric and teacher, Mohammad Hassan Ebrahimi, was kidnapped at his school; he was then killed, and his body was recovered in May. No ransom was demanded, and the GPF's investigation has not determined a motive for the crime.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture, and there were no reports of its use; however, allegations of police abuse of suspects continued. The GHRA continued to consider mistreatment of prisoners by prison officers a problem.

Many legal authorities and human rights activists stated that due to high crime and pressure from urban businesses, which were often the targets of criminals, the Government did not actively pursue investigations of alleged police abuses. Fear of reprisals also limited citizen reporting of police abuses.

Prison and jail conditions were poor, particularly in police holding cells. Georgetown's Camp Street Prison, the country's largest, was overcrowded. The Prison Authority reported that there were 1,157 inmates in the 5 facilities in the system, nearly half of whom were in the Camp Street Prison. According to prison officials, the facility was intended to hold 500 inmates; however, the Guyana Human Rights Association (GHRA) stated that the Camp Street Prison initially was designed to hold 350 inmates. Conditions in the country's four smaller prisons generally were adequate. Some of the prisons were staffed with medical personnel whose training fell somewhere between that of a nurse and a doctor. GHRA continued to advocate improved health care in the prison system.

Although sanitary and medical conditions in police station temporary holding facilities varied, in almost all cases, these conditions were worse than those in the prisons. Some jails were bare, overcrowded, and damp. Few had beds, washbasins,

furniture, or utensils. Meals normally were inadequate; friends and relatives routinely had to bring detainees food and water. Cells rarely had sanitary facilities, and staff members sometimes escorted inmates outside the cells to use holes in the floor for toilets. Inmates generally slept on a thin pallet on the concrete floor. The Brickdam lockup in Georgetown had poor sanitation and dangerous conditions. Although precinct jails were intended to serve only as pretrial holding areas, some suspects were detained there as long as 2 years, waiting for the overburdened judicial system to act on their cases.

At least one inmate died while in police custody. On July 7, Kellowan Etwaroo was found dead in his cell at the La Grange Police Station. Etwaroo's wife discovered his body at the police station. The autopsy confirmed that Etwaroo died as a result of massive head injuries; there were reports that he had been banging his head against the wall for many hours.

The only women's prison is in New Amsterdam. Men and women were held separately in dormitory-type buildings. Conditions at the prison generally were adequate; however, security for prisoners was lax. Prisoners had access to knives, long knitting needles, and machetes. There were incidents of prisoners attacking other prisoners, including one case where a female foreign prisoner was stabbed and received life-threatening wounds. She was then returned to the same cell, with no additional protection.

Police continued to place juvenile offenders in a fairly adequate separate facility; however, female juvenile offenders were held with adult female prisoners.

Pretrial detainees were held separately from convicted prisoners. Some special watch/high profile pretrial detainees were kept in security divisions also occupied by convicted prisoners.

The Government permitted independent monitoring of prison conditions, but there were no known requests to conduct such monitoring during the year. Consular interviews with prisoners took place in the presence of prison guards.

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

The GPF is a centralized, military-style organization. There are seven regional districts, but all criminal investigations operated out of headquarters in Georgetown. Two specialized units with no clearly defined mandate, the Tactical Services Unit and the Quick Reaction Group, were disbanded during the year. The Special Constabulary received the same training as the regular police but focused mainly on guard duty for cabinet ministers and certain government facilities. The GPF made use of operational training offered through international cooperation agreements. The GPF included a basic human rights course in their recruit-training program, and the GHRA participated in most training programs.

Poor training, poor equipment, and acute budgetary constraints severely limited the effectiveness of the GPF. Public confidence and cooperation with the police remained extremely low. The Commissioner of Police appointed in February increased the number and visibility of police on the streets. There were reports of corruption in the police and a lack of police accountability, although the new Commissioner took steps to address both issues. Nevertheless, most cases involving charges against police officers were heard by lower magistrate courts, where other specially trained police officers served as the prosecutors. The Bar Association questioned officers' commitment to prosecute their own colleagues and recommended that for serious cases the Office of the Director of Public Prosecutions should handle prosecutions.

The Police Complaints Authority (PCA) was composed of five members who investigated complaints against police officers. The law provides for the independence of the PCA; however, an appointment system drawing heavily from retired judges fostered a reluctance to take controversial or decisive action. A lack of adequate powers for independent investigation limited the effectiveness of the PCA. The Office of Professional Responsibility also investigated complaints against the police.

The 2003 Disciplined Forces Commission report on the operations of the security services was completed during the year; its recommendations remained under parliamentary consideration.

Arrest does not require a warrant issued by a court official. Police may arrest without a warrant when an officer witnesses a crime or at the officer's discretion in instances where there is good cause to suspect that a crime or a breach of the peace has been or will be committed. The law requires that a person arrested and held for more than 24 hours be brought before a court to be charged, and this was generally observed in practice. Bail was generally available, except in capital offense cases. In narcotics cases, magistrates limited discretion in granting bail before trial

and are required to remand persons convicted of such crimes into custody, even if an appeal is pending.

The law provides criminal detainees the right to access to a lawyer of their choice family, as well as access to family members; however, in practice, these rights were not fully respected. Police routinely required permission from the senior investigating officer, who was seldom on the premises, before permitting counsel access to their client. There were reports that senior officers refused to grant prompt access to prisoners, as the law requires.

Lengthy pretrial detention, due primarily to judicial inefficiency, staff shortages, and lengthy legal procedures, remained a problem.

The Government did not detain persons on political grounds, although supporters of Mark Benschop, a talk show host held on charges of treason, considered him to be a political detainee (*see* Section 2.a.).

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, some law enforcement officials and prominent lawyers accused the Government of occasional judicial intervention in civil cases involving judgments against the Government.

The court system is composed of a high court (the Supreme Court of Judicature), an appeals court, and a system of magistrate courts. Magistrates were members of the civil service and were trained lawyers. The magistrate courts deal with both criminal and civil matters, and specially trained police officers serve as prosecutors in lower magistrate courts. The Ministry of Legal Affairs, normally headed by the Attorney General, is the principal legal advisor to the State. The Director of Public Prosecution is statutorily independent and may file legal charges against offenders. The Constitution provides that anyone charged with a criminal offense has the right to a hearing by a court of law, and this right generally was respected in practice.

Delays and inefficiency characterized the judicial process and undermined due process. Delays in judicial proceedings were caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional alleged acts of bribery, poor tracking of cases, and the slowness of police in preparing cases for trial.

The JSC has the authority to appoint judges and determine tenure and has the power to appoint the Director and Deputy Director of Public Prosecutions. The President, on the advice of the JSC, may make temporary appointments of judges to sit in magistrate courts and on the High Court.

The long-delayed formation of the Public Service Commission in December 2003 led to reconstituting the other constitutional service commissions and resumption of appointments and promotions in the judiciary and magistracy.

Defendants are granted public trials, and appeals may be made to higher courts. Defendants are presumed innocent until found guilty. Cases in magistrate's courts are tried without jury; more serious cases are tried by jury in the High Court. Appeals of some murder cases may go on for several years. Trial postponements were granted routinely to both the defense and the prosecution. Programs designed to improve legal structures, reform judicial procedures, upgrade technical capabilities, and improve efficiency of the courts had only a limited effect. Introduction of court mediation in late 2003 generated significant interest among legal practitioners, and the Alternative Dispute Resolution Center has begun to reduce the court backlog.

Although the law recognizes the right to legal counsel, in practice, with the exception of cases involving capital crimes, it was limited to those who could afford to pay. There was no public defender system, but defendants in murder cases who needed a lawyer were assigned an attorney by the court.

The Georgetown Legal Aid Clinic, with public and private support, provided advice to persons who could not afford a lawyer, with a special interest in cases of violence against women and criminal cases related to civil cases (for example, assault as part of a divorce case).

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions; however, the authorities sometimes infringed on citizens' privacy. Law enforcement officials must obtain warrants before searching private homes or properties. Although the authorities generally respected these requirements, there were reports that police officers searched homes without warrants, particularly in neighborhoods where narcotics trafficking was suspected.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice

and did not restrict academic freedom. Citizens could openly criticize the Government and its policies.

The independent Stabroek News and Kaieteur News published daily, and a wide range of religious groups, political parties, and journalists published a variety of privately owned weekly newspapers. The independent media were active and expressed a wide variety of views without restriction. International media were allowed to operate freely. The Government's daily newspaper, the Guyana Chronicle, which typically displayed an anti-opposition bias, covered a broad spectrum of political and nongovernmental groups. There were no reports of prior restraint of media reporting.

Talk show host Mark Benschop, arrested in 2002 on charges of treason for his role in the July 2002 storming of the Presidential Office Complex, went to trial in November. Long pre-trial incarceration was characteristic of the judicial system, and there was no indication of a political motivation in delaying this trial

Government limits on licensing and expansion constrained the broadcast media. The Government owned and operated the country's sole radio station, which broadcast on three frequencies. There were no private radio stations, and private interests continued to criticize the Government for its failure to approve requests for radio frequency authorizations. The Government stated that no new radio or television licenses will be granted and no extensions of broadcast service will be approved pending passage of a new broadcast law, which a political stalemate has prevented. Nonetheless, the national television station continued to expand its service. Twelve independent television stations also continued to operate.

Equal access to the state media remained a contentious issue between the Government and the major opposition.

There were reports of police harassment of the media. In August, cameramen filming police operations in a community near Georgetown had their tapes confiscated, and, in one case, a camera was destroyed when the reporter resisted surrender of the tape. One tape was later returned, but the footage had been erased. One of the television stations involved decided to pursue legal action in the case. The television station and the police have reached amicable settlement; the police have undertaken to repair the damaged camera and as a consequence the legal action has been dropped.

The Government did not restrict access to the Internet.

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

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

The Government recognizes religious groups of all faiths present; however, churches were required to register with the Government to be formally recognized. Religious groups seeking to establish operations require permission from the Ministry of Home Affairs before commencing their activities.

Groups seeking access to the interior are required to obtain special permission from the Ministries of Home Affairs and Amerindian Affairs. The Ministries review the scope of activities submitted by the religious body and grant approval on a case-by-case basis.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. Travel to Amerindian areas required government permission, the result of a law dating from colonial times designed to protect indigenous people from exploitation. However, in practice, most persons traveled throughout these areas without regard to the formality of a permit.

The Constitution prohibits forced exile, and it was not used.

The country was not party to the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum. There were no requests for refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. Legal challenges continued to impede efforts by the Ministry of Home Affairs and the Cuban Government to force repatriation to Cuba of a Cuban national married to a Guyanese citizen.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. There is a multiparty political system based on proportional representation. Voters elect 25 of the 65 deputies from regional constituencies; the remaining 40 seats are filled proportionally from national slates of nominees chosen by the parties from different sectors of society. Any citizen 18 years or older may register to vote. Citizens are free to join or support political parties of their choice. Since the party in power controls Parliament, the legislature typically provides only a limited check on the executive's power.

Voters indirectly elect the President to a 5-year term of office. A party's presidential candidate must be announced in advance of the election. The party that wins the most votes for Parliament wins the presidency. The President appoints a cabinet and a prime minister who, with the President, exercise executive power.

In March 2001, citizens voted in a generally free and fair election to keep the PPP/C in office, defeating the Peoples National Congress/Reform (PNC/R) party. Incumbent Bharrat Jagdeo received his own mandate for a 5-year term as President. The opposition called for the courts to declare the election unconstitutional and illegal, which briefly delayed Jagdeo's swearing-in. An audit of the 2001 election led by the Institute for Democracy and Electoral Assistance, an intergovernmental organization, found that, despite several procedural errors and system failures, there was no evidence of a conspiracy or corruption to manipulate election systems or the election results, as the opposition alleged.

Society is racially divided, and the political party structure reflected the polarization of the main ethnic groups. The two major parties (the PPP/C and the PNC/R) were formed largely by Indo-Guyanese and Afro-Guyanese, respectively. Indo-Guyanese voters were a majority, which has allowed the PPP/C to retain power since 1992.

In April, a task force to reform the local government system completed its work, although Parliament had not yet passed the associated legislation. The task force has not reconvened due to disputes between the two major political parties. Local government elections have been delayed pending the completion of the reform, and were 7 years overdue.

There was a widespread public perception of corruption in the Government, including the police (*see* Section 1.d.). Corruption scandals involving duty-free concessions to returning migrants and the export of dolphins attracted considerable attention.

The law did not provide for public access to government information. Government officials were reluctant to provide public information without approval from senior levels of the administration.

There were no legal impediments to the participation of women or minorities in the political process. The Constitution requires that one-third of the parliamentary candidates be female. There were 19 women in the 65-seat Parliament and 3 women in the 20-member Cabinet. The Chancellor of the Judiciary was a woman. There were four Amerindians in the Parliament and one Amerindian in the Cabinet.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases, and holding conferences and workshops on social issues. Government officials were cooperative but poorly responsive to recommendations made by independent human rights groups. The GHRA was the most active local human rights group and issued periodic press releases. Trade unions, professional organizations, various ethnic groups, and churches participated in the GHRA. Members of the Government openly discussed human rights issues and made public statements in response to foreign and local human rights reports.

The Constitutional Reform Commission mandated a Human Rights Commission (HRC) to be comprised of a Chairperson and the four chairpersons of the Women's, Children's, Indigenous, and Ethnic Relations commissions. By year's end, only the Ethnic Relations Commission had been activated, preventing establishment of the HRC.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides fundamental rights for all persons regardless of race, sex, religion, or national origin; however, the Government did not always enforce these provisions.

Women.—Violence against women, including domestic violence, was widespread and crossed racial and socio-economic lines. The Domestic Violence Act defines and criminalizes domestic violence and gives women the right to seek prompt protection. Magistrates may issue interim protection orders when a victim of abuse, a police officer, or a social worker completes an application for protection. A magistrate then evaluates the case and decides whether to replace interim orders with permanent orders. The Act allows victims to seek protection, occupation, or tenancy orders. Protection orders prohibited abusers from being anywhere that the applicant lives, works, visits, or attends school. If protection orders were violated, the abuser could be fined up to $54 (G$10,000) and imprisoned for up to 12 months; however, this legislation frequently was not enforced. The NGO Help and Shelter (H&S) noted that training had improved implementation of the Act, but not all police officers fully understood its provisions. Occupation orders allowed the victim and any children to remain in a home previously shared with an abuser, while the abuser must leave. Similarly, tenancy orders required an abuser to leave a rented dwelling and to continue to pay some or all of the rent.

Between January and September, H&S handled 224 cases of abuse, including child, spousal, nonspousal, and other domestic abuse; 188 of the cases involved spousal abuse directed against women. Only five cases resulted in prosecutions.

NGOs provided training to police officers, teachers, nurses, agricultural workers, religious groups, and health clinics to sensitize them to domestic violence. Police who had not undergone training continued to treat domestic violence as a private matter. H&S operated a hotline to counsel victims.

Although rape was illegal, it was a serious but infrequently reported or prosecuted problem. While increasing numbers of victims reported these crimes to the authorities, victims were still socially stigmatized.

Prostitution is illegal, but it did occur, and it received greater public attention due to the high incidence of HIV/AIDS among prostitutes and increased attention to trafficking in persons.

The Constitution prohibits discrimination based on gender; however, there was no legal protection against sexual harassment in the workplace. Officials of the Women's Leadership Institute (WLI), a collaborative effort between the Government and the UNDP, asserted that sexual harassment was a significant problem. WLI has reported that while the problem is widespread, victims are reluctant to make official reports, fearing the associated stigma and lack of confidence of the legal system to deliver justice even after long and frustrating delays.

Although women constituted a significant proportion of the workforce, there were credible reports that they did not enjoy equal treatment and faced disadvantages in promotion. The law prohibits dismissal on the grounds of pregnancy, and dismissal on such grounds did not occur in practice. The Women's Affairs Bureau of the Ministry of Labor monitored the legal rights of women, but its role was limited to employment-related services. The WLI sought through education and training to facilitate greater participation by women in government and the private sector. In March, the WLI began an 18-month collaboration with the Canadian/Caribbean Gender Equality Program. WLI has reported that they are half way through the training. So far three Train the Trainers workshops and four capacity building workshops have been completed. The institute is currently in the process of conducting mobile workshop training at the grassroots level. It is expected that the entire program of training will be completed by July/August 2005.

The law protects women's property rights in common-law marriages and entitles a woman who separates or divorces to one-half the couple's property if she had been working and one-third of the property if she had been a housewife. Divorce by mutual consent remained illegal. The courts may overturn a husband's will in the event that it does not provide for his wife, so long as she was dependent on him for financial support.

Children.—Children (accounting for one-third of the country's population) were affected more severely by poverty than any other group. Public education was available to age 20; education was compulsory up to age 16 and was universal and free through secondary school. Parents had the option to send their children to private schools at their own expense. Children often did not attend school because their families needed them to contribute to the household by working or providing childcare for siblings or younger relatives (*see* Section 6.d.). Primary school attendance was 87 percent, although only 50 percent of the children completed secondary education. The severe deterioration of the public education and health care systems limited children's future prospects. The public health system was inadequate, and private health care was unaffordable for many children.

There was continued concern over the effects of domestic violence on children. It was unclear how many deaths from child abuse took place; law enforcement officials believed that the vast majority of criminal child abuse cases were unreported. Reports of physical and sexual abuse of children were common. The Probation and Welfare Department reported 106 cases of child abuse through August.

In December, the age of consent was raised from 13 to 16.

The age of consent issue was highlighted in June by a case involving Reeaz Khan, a prominent businessman who was having sexual relations with a 13-year-old girl. When the mother discovered the relationship, she pressed charges. According to news accounts, Mr. Khan then kidnapped the girl. After the child was rescued, a judge sent her to a juvenile prison, due to the lack of a suitable alternative protective institution, and Khan was charged with abduction. Media reports of rape and incest further indicated that violence against children was a significant problem. The Domestic Violence Act allows police officers or social workers to file an application on behalf of an abused child, but there was a lack of social services or trained experts to assist children fleeing sexual, physical, or emotional abuse.

The Government reiterated its position that corporal punishment is acceptable. Corporal punishment was permitted in schools and homes; however, in schools, it must be administered by or in the presence of the principal. Data on the number of corporal punishment cases were unavailable. The Ministry of Education abandoned a program intended to phase out corporal punishment in schools.

There were reports of child prostitution (*see* Section 5, Trafficking).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked to and within the country.

In December an anti-trafficking bill was voted into law. The Government used laws that prohibit underage sex, prostitution, and kidnapping to address human trafficking issues.

The maximum penalty for forcible abduction for prostitution is 14 years' imprisonment. The maximum penalty for owning or operating a premise where sex with a girl under the age of 15 is permitted is life imprisonment.

Responsibility for trafficking issues falls under several agencies and government officials. President Jagdeo designated Minister Bibi Shaddick of the Ministry of Labor, Human Services, and Social Security to address human trafficking. Deputy Commissioner Henry Greene of the GPF monitors enforcement. Since February, the Government has acted to combat human trafficking, resulting in the arrest of at least 10 persons whose cases remained pending at year's end.

The country was a source and destination for trafficked women and children, although most trafficking in persons occurred internally. Trafficking reportedly took place in the interior, where government oversight was light and law enforcement was lacking. In 2003, the latest year for which figures were available, there were an estimated 100 cases of trafficking, the majority of which involved underage prostitution, with victims recruited from coastal or Amerindian communities to work as sex workers in mining areas. Reports indicated that trafficking victims were lured into mining camps with promised employment as highly paid domestic helpers, cooks, restaurant servers, and nude dancers. Trafficking victims from Brazil were reportedly flown into mining camps on private flights. They were provided barracks-style housing with cramped quarters, and sometimes kept under lock and key. They were restrained through debt-bondage, intimidation, and physical abuse. Most victims were exposed to the same health risks as prostitutes and other sex workers, including sexually transmitted diseases such as HIV/AIDS.

Most traffickers were believed to be individual businessmen or small groups of miners. There was no evidence that government officials or institutions participated in, facilitated, or condoned human trafficking. Since February, government officials have taken a public stance against human trafficking as well as significant action to eliminate its practice. Although police corruption continued, there were no reports of any cases of police corruption linked to human trafficking. The Government did not condone trafficking-related practices.

Organizations such as the GHRA, Red Thread, and H&S organized to provide assistance to trafficking victims. H&S received funding from the Government as part of a broader commitment to assist trafficking victims.

There were no reports that human trafficking victims were subjected to any punishment. Victims identified by the Government have been removed from the traffickers' custody and provided passage back to their homes. There were no reports of societal discrimination against trafficking victims.

The Government undertook a national public awareness campaign to educate potential victims about the dangers of trafficking in persons. Government ministers travelled throughout the country to promote public awareness of trafficking in re-

mote communities. In July, television stations began broadcasting anti-trafficking public service announcements distributed by the Government. In October, the International Organization for Migration, in collaboration with the Inter-American Commission of Women, conducted human trafficking training as part of the Government's outreach program.

Persons With Disabilities.—There is no law mandating provision of access for persons with disabilities, and the lack of appropriate infrastructure to provide access to both public and private facilities made it very difficult for persons with disabilities to be employed outside their homes. A National Commission on Disabilities worked during the year to develop new legislation covering persons with disabilities, as well as serving as a coordinating center for other groups. Some independent organizations dealing with specific disabilities existed, such as a society for the visually impaired. The Open Door Center offered assistance and training to persons with disabilities and functioned throughout the year.

National/Racial/Ethnic Minorities.—Longstanding ethnic tensions, primarily between citizens of African descent and those of South Asian origin, continued to influence society and political life. Racial grouping of social and political organizations polarized society along ethnic lines, and discrimination and exclusion continued to occur. Members of both the largely Indo-Guyanese PPP/C and the largely Afro-Guyanese PNC/R engaged in rhetorical and propaganda attacks that fueled racial tensions.

The civil service and security forces continued to be overwhelmingly staffed by Afro-Guyanese. Recruitment for the uniformed services operated on an open basis, with no preference or special effort to attract applicants from any particular group. Most qualified Indo-Guyanese candidates opted for a business or professional career rather than apply for a career in the military, police, or public service.

Indigenous People.—The Amerindian population, which consists of nine tribal groups, constituted an estimated 8 percent of the population. Most lived in reservations and villages in remote parts of the interior. Their standard of living was much lower than that of most citizens, and their ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources was limited. Access to education and health care in Amerindian communities was limited.

Amerindian life is regulated by the Amerindian Act, legislation dating from colonial times designed to protect indigenous people from exploitation. Under the Act, the Government may determine who is an Amerindian and what constitutes an Amerindian community, appoint Amerindian leaders, and annul decisions made by Amerindian councils. It also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian may accept formal employment, but these provisions were not enforced. Both Amerindian individuals and groups remained free to criticize the Government. Progress continued on a revision of the Amerindian Act. The Cabinet considered recommendations from a series of consultations with Amerindian communities during the year. Regional consultations and consultations with political parties remained to be carried out before a proposal could be presented to Parliament.

For the Amerindian population, the question of land rights was a major issue. The Government held title to almost all the country's land and was free to act without consultation. The law provides Amerindians with limited land rights, and legal titles may be taken away in at least five ways. In addition, Amerindians complained that the Government allocated land (to mining and logging interests as well as for environmentally protected reserves) without proper consultations with the communities. The Amerindian communities often viewed these allocations as illegitimate seizure of "their" lands and complained that consultations on development in the interior did not provide adequate time for feedback.

The Government continued to maintain that it was committed to demarcating traditionally Amerindian lands; however, the process lacked transparency and continued to be a source of contention. Although the demarcation process moved forward during the year, progress was slow. In February, the Government made two substantial land grants to Amerindian communities.

Other Societal Abuses and Discrimination.—Persons living with HIV/AIDS encountered societal discrimination, including derogatory comments, the refusal of some mini-bus drivers to pick them up, and other types of stigma-related discrimination. There were reports of employers releasing HIV-positive employees, as well as denying employment on the basis of a person's HIV-positive status, but there was no evidence of official discrimination against persons with HIV/AIDS.

A recent poll of unemployed out-of-school youth conducted by the Ministry of Health indicated that 51 percent of respondents reported having known someone

with HIV/AIDS (30 percent had a close relative with HIV/AIDS). When asked whether or not a HIV-positive person should be allowed to teach, only 34 percent thought they should be allowed to do so, and nearly 30 percent believed that those living HIV/AIDS should be quarantined.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of association and specifically enumerates workers' rights to form or belong to trade unions, and workers exercised this right in practice. However, the Constitution also specifically bars GPF members from unionizing or associating with any other established union. Approximately 32 percent of the work force was unionized.

There is no law prohibiting anti-union discrimination by employers. Although not always in harmony with specific unions, the country's socialist history continued to ensure that the Government maintained a generally pro-union stance.

b. The Right to Organize and Bargain Collectively.—Public and private sector employees possessed and utilized the right to organize and to bargain collectively. The Ministry of Labor certified all collective bargaining agreements, and there have never been reports that it refused to do so. Individual unions directly negotiate collective bargaining status. The Chief Labor Officer and the staff of the Ministry of Labor provided consultation, enforcement, and conciliation services.

The Constitution provides workers with the right to strike, and workers exercised this right in practice. Strikes may be declared illegal if the union leadership did not approve them or if they did not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeleton staff in place, but they are required to engage in compulsory arbitration to bring an end to a strike. There was no law prohibiting retaliation against strikers, but this principle was always included in the terms of resumption after a strike. The Trade Unions Recognition Law defines and places limits on the retaliatory actions employers may take against strikers.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Factories Act and the Employment of Young Persons and Children Act set minimum age requirements for employment of children; however, child labor in the informal sector was a problem, and it was common to see very young children engaged in street trading in the capital. Legally, no person under age 14 may be employed in any industrial undertaking, and no person under age 16 may be employed at night, except under regulated circumstances. The law permits children under age 14 to be employed only in enterprises in which members of the same family are employed. According to UNICEF, between 1999–2001, 19 percent of children between the ages of 5 and 14 were involved in labor activities.

While the Ministry of Labor recognized that child labor existed in the informal sector, it did not employ sufficient inspectors to enforce existing laws effectively. The practice of teenage prostitution was a problem (*see* Section 5).

e. Acceptable Conditions of Work.—The Labor Act and the Wages Councils Act allow the Labor Minister to set minimum wages for various categories of private employers, but there was no legislated multi-sector minimum wage. A civil service arbitration ruling in 1999 established a minimum public sector wage, which has since been increased periodically by unilateral government action to $109 (G$22,099) per month. Although enforcement mechanisms existed, it was difficult to put them into practice, and unorganized workers, particularly women and children in the informal private sector, often were paid less than what was required legally in the service sector. Laborers and untrained teachers at public schools also were paid less than the minimum wage. The legal minimum wage for the public sector did not provide a decent standard of living for a worker and family.

The Shops Act and the Factories Act set hours of employment, which vary by industry and sector. In general, work in excess of an 8-hour day, regardless of hours worked in the week, or a 44-hour week required an overtime payment rate. The law does not require a minimum weekly rest period.

The Factories Act also establishes workplace safety and health standards. The Occupational Health and Safety Division of the Ministry of Labor is charged with conducting factory inspections and investigating complaints of substandard workplace conditions. As with its other responsibilities, inadequate resources prevented the

Ministry from effectively carrying out this function. Workers could not remove themselves from dangerous work situations without jeopardizing continued employment.

HAITI

Haiti is a republic with an elected president and a bicameral legislature. The 1987 Constitution remains in force, but many of its provisions were not respected in practice. The opposition parties boycotted the 2000 presidential elections, in which Jean-Bertrand Aristide was reelected president with extremely low voter turnout. The political impasse and violence stemming from controversial results of the May 2000 legislative and local elections worsened, and despite accepting a Caribbean Community (CARICOM) plan committing the Government to create a climate of security for elections, President Aristide did not fully implement the plan. Anti-Government armed rebels along with members of the former military (FAd'H), many of whom had previously been implicated in human rights abuses, mounted a major insurgency beginning in early February, ultimately resulting in President Aristide's resignation and departure from the country on February 29. At the time of his departure, government and public security institutions hardly functioned. Boniface Alexandre, Chief Justice of the Supreme Court, assumed office as interim President in accordance with the Constitution. On March 4, a Tripartite Council was formed, consisting of one representative each from Aristide's Fanmi Lavalas Party (FL), the opposition movement's Democratic Platform, and the international community. The Tripartite Council chose a seven-member Council of Eminent Persons, with representatives from the Catholic Church, human rights groups, academia, the private sector, the opposition umbrella group Democratic Convergence, and Fanmi Lavalas, to select a new prime minister. On March 17, Gerard Latortue was installed as Prime Minister of the Interim Government of Haiti (IGOH) upon recommendation from the Council Of Eminent Persons to President Alexandre. The Constitution provides for an independent judiciary; however, under Aristide's government, it was subject to interference by the executive and legislative branches and remained largely weak and corrupt. Under the IGOH, the judicial system continued to be hampered by the weaknesses inherited from the previous government, but was not subject to interferences from other branches of the Government. The instability in the country immediately following President Aristide's departure made the justice system inoperative for a few months. During the remainder of the year, many judges feared retribution from rebels and gangs from across the political spectrum.

The Haitian National Police (HNP) has a variety of specialized units, including a crisis response unit (SWAT); a crowd control unit (CIMOs) serving Port-au-Prince and the Western department; a crowd control unit serving each of the remaining eight departments; and a small Coast Guard unit. The large and well-funded Presidential Security Unit, officially part of the HNP, had its own budget and remained administratively and functionally independent. The HNP is officially an autonomous civilian institution; under President Aristide, however, authorities did not maintain effective control of the security forces. President Aristide filled many key HNP positions with political allies and corrupt or political elements lacking experience, training, and credibility. Partisan political leaders exercised control over elements of the police and influenced it for personal or political gain. The politicization of the HNP facilitated both political violence and drug trafficking. After President Aristide's departure, the new leadership of the HNP, the sole security force in the country after the disbanding of the FAd'H in 1995, took steps to address corruption by firing 200 corrupt, inexperienced officers and inducting a new class of recruits who were cleared by human rights organizations. However, some HNP officials were implicated in corruption, kidnapping, and narcotics trafficking. Members of the HNP committed human rights abuses during the year.

In April, at the request of the interim government, the U.N. authorized a Multilateral Interim Force (MIF), made up of troops from the U.S., Canada, France, and Chile, to ensure stability until the deployment of a U.N. peacekeeping force. In April, the U.N. Security Council authorized 6,700 troops and 1,622 civilian police for the U.N. Stabilization Mission in Haiti (MINUSTAH).

The country had a market-based economy with state-controlled utilities and an estimated population of 8 million. The country suffered a sharp economic decline during the year. The International Monetary Fund estimated real gross domestic product growth of 3.8 percent for the year, after several years of near zero growth. In November, the U.N. estimated that 55 percent of the population lived on less than a dollar per day; two-thirds did not have formal employment. The informal sector

was an important component of the economy. Textiles, assembled goods, leather goods, agricultural products, and handicrafts provided limited export revenue. Inflation was approximately 20 percent for the year.

The Government's human rights record remained poor. During the year, various actors perpetrated numerous human rights abuses, particularly during the armed revolt and the authority vacuum that followed. There were credible reports of arbitrary killings by some members of the HNP, the FAd'H who helped force President Aristide's resignation, and pro-Lavalas partisans and street gangs who were suspected of being paid and armed by President Aristide and his supporters. Systematic, state-orchestrated abuses stopped under the IGOH, but incidences of retribution killings and politically motivated violence, particularly in the provinces, continued. In the months following President Aristide's departure, there were numerous reports of human rights abuses against supporters of Aristide. Many of these were attributed to groups who acted independently of the IGOH, such as members of the former military (FAd'H), and to former members of the paramilitary organization Revolutionary Armed Front for the Progress of Haiti (FRAPH). Police officers used excessive- and sometimes deadly-force in making arrests or controlling demonstrations and rarely were punished for such acts.

Legal impunity remained a serious problem due to a weakened police force and judicial system. On January 1, the Government granted amnesty to some convicted criminals imprisoned around the country. Their release, combined with the high number of prisoners who escaped detention from police stations and the destruction of prisons around the country in the turmoil that followed Aristide's departure, created further instability. Some of those released and escaped criminals were also responsible for human rights violations during the year. Few prisons were rehabilitated, but some prisoners were re-arrested, only worsening prison conditions. Pretrial detention was a serious problem. The media were largely free and often critical of both the Aristide and the interim governments. However, most journalists practiced some form of self censorship. Child abuse, violence, and societal discrimination against women remained problems. Internal trafficking of children and child domestic labor remained problems.

On October 28, the Inter-American Commission on Human Rights (IACHR) "expressed" its concern over the series of violent confrontations that occurred between police and illegal armed gangs in Port-Au-Prince during the month of October. The Commission also noted that it had received reports of arbitrary arrests and detentions of persons and threats and acts of violence and intimidation against human rights defenders and journalists.

Several times during the year, Amnesty International (AI) published reports and issued statements that described and called for the end to a cycle of violence caused by armed groups both opposed and loyal to former President Aristide.

In November, Louis Joinet, U.N. Independent Expert on Human Rights in Haiti, remarked that the governmental presence outside of the capital was nonexistent. Joinet noted the weak and corrupt state of the justice system, and he cautioned that the HNP must follow the letter of the law in the execution of their duties, such as obtaining arrest warrants before making arrests.

In November and December, U.N. Secretary-General Kofi Annan and other foreign government officials called upon the IGOH to create a more secure environment within the country and to ensure that all detainees received full constitutional protections. The IGOH's capacity to do so remained limited at year's end.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary and Other Unlawful Deprivation of Life.—Arbitrary and other unlawful deprivation of life perpetrated by state agents and others continued throughout the year. Members of the HNP continued to commit arbitrary and unlawful killings. In addition, members of illegal armed groups arbitrarily killed citizens.

On March 20, five HNP officers arrested five youths from the pro-Aristide neighborhood of La Saline in Port-au-Prince. The families of the five youths, Jean Wesly Etienne, 17, Emmanuel Deronville, 20, Monel Pierre, 23, Pierre Dorceant, and Abel Cherenfant 24, claimed that they were leaders of popular civic organizations that supported Aristide. Human rights organizations claimed they were members of "chimere" groups (thugs) who had participated in crimes together with the police; and that the police were seeking to silence them. On March 21, their bodies, bearing signs of torture, were found near the airport. The five policemen were arrested and remained in jail awaiting trial at year's end.

On the evening of September 28, unknown assailants shot and killed two HNP officers in a pro-Lavalas area of downtown Port-au-Prince. By year's end, no one had been arrested for the killing.

There were deaths in prison during the year (*see* Section 1.c.).

During the year, deaths occurred during civil unrest (*see* Section 1.g.).

In November, AI called upon the Government to establish an independent commission of inquiry into summary executions attributed to members of the HNP (*see* Section 1.g.).

There were no developments in 2003 cases, including the January killings of Eric Pierre and 17-year-old John Peter Ancy Oleus in Carrefour, and the February killing of student Ronuald Cadet.

There were no developments, and none were expected, in several 2002 killings, including those of three youths from Cite Soleil, a farmer in the town of Hinche, three brothers from Carrefour, and four persons during an attack on the Las Cahobas jail.

The IGOH's investigations into the high-profile killings of journalists Jean Dominique in 2000 and Brignol Lindor in 2001 continued at year's end.

Herbert Valmond and Carl Dorelien, former FAd'H colonels convicted in absentia in 2000 for premeditated homicide in connection with the 1994 Raboteau massacre, escaped from the national penitentiary in the post-February 29 power vacuum. Their whereabouts were unknown and no progress was made in these cases at year's end.

From January through April, a security vacuum in the Northeast Artibonite seat of St. Michel de L'Attalaye resulted in violence between local government authorities, local townspeople, and members of the Resistance Front, a heavily armed anti-Aristide group not sanctioned by the Government. By April 25, three persons were dead and 163 houses burned or destroyed.

b. Disappearance.—There were credible reports of politically motivated disappearances during the year.

On February 28, Wisly Francique, a student from Carrefour who supported the Lavalas regime, disappeared and remained missing at year's end.

On March 1, Jasmy Emmanuel disappeared after participating in a demonstration in front of the National Palace against the departure of President Aristide.

There were reports of disappearances stemming from the internal conflict (*see* Section 1.g.)

There were widespread kidnappings by armed criminal elements of wealthy persons throughout the year. All were resolved through the payment of ransom.

There were no developments in the disappearance cases reported in 2003, including Junior Jean, Mankes Analus, Pierre Franklin Julien, and Ordonel Paul.

c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such actions; however, members of the security forces continued to violate these provisions, particularly prior to the resignation of President Aristide. Police officers used excessive and sometimes deadly force in making arrests or controlling demonstrations and rarely were punished for such acts. In January and February, pro-President Aristide gang members routinely attacked members of the opposition and university students to prevent them from peacefully exercising their constitutional rights. Members of the HNP also used excessive force, such as shooting and using teargas, to suppress demonstrations (*see* section 2.b.).

Judie C. Roy, who repeatedly was tortured in various prisons during 2003 and ultimately incarcerated at the Petionville police station for "plotting against the security of the State," escaped from prison following President Aristide's departure and was not rearrested. There were no efforts made to rearrest Roy during the year.

There were no developments in the 2003 torture investigations of Joseline Desroses or Jonathan Louime.

Prison conditions worsened during the year. During the upheaval around February 29, many police stations and prisons around the country were damaged or destroyed, and most prisons were emptied of prisoners. By year's end, 14 of 21 prisons around the country were rehabilitated and rendered functional. An already burdened prison system was stressed further with fewer facilities to hold prisoners. Conditions in those facilities worsened and, due to lack of available space, minors and adults often were held in the same cell.

Prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and, in some facilities, 24-hour confinement. Most prisons periodically suffered from lack of water, especially in the provinces. The incidence of preventable diseases such as beriberi, AIDS, and tuberculosis increased. The prison population numbered 1,941 at year's end. Approximately 95 percent of prisoners still were awaiting a judicial determination on their cases. That

number did not reflect the large number of persons who were held in police stations around the country in prolonged preventive detention (garde a vue) for longer than the constitutionally mandated 48-hour time period.

In the initial days following President Aristide's departure, there were many reports of former military performing "police" functions by executing arrest warrants in provincial towns.

The Government's Office of Citizen Protection monitored prison conditions and offered training to prison administrators on criminal procedures, particularly the constitutional requirement limiting preventive detention to 48 hours. The U.N. Development Program (UNDP) continued technical assistance to the Department of Prison Administration (DAP), focusing on midlevel warden training and management information. The National Coalition for Haitian Rights (NCHR), a local human rights organization, actively monitored prison conditions in cooperation with the DAP, which offered a prisoners' rights awareness campaign. Both NCHR's and DAP's programs continued during the year. DAP's assistance increased after the situation stabilized in the spring.

The DAP conducted objective testing of prison physicians and nurses to exclude those who were inadequately trained. Doctors were available in the capital but were less frequently available to those incarcerated in the provinces. Nurses did not conduct daily checkups on the physical condition of inmates. Dispensary supplies were limited, and family members often had to purchase needed medication.

On December 1, an attempted prison escape by some detainees at the National Penitentiary resulted in a riot. Prison guards and special units of the HNP's CIMO and SWAT responded with excessive force; killing 7, shooting and injuring 17, and brutally beating and mistreating 29 detainees. Prisoners injured six HNP officers and burned eight prison cells.

Space permitting, male and female prisoners were held separately. Juvenile detainees were not held separately from adults.

Overcrowding prevented the separation of violent from nonviolent prisoners or convicts from those in pretrial detention. Many were incarcerated in temporary holding cells, particularly in the provinces.

The authorities freely permitted the International Committee of the Red Cross (ICRC), the Haitian Red Cross, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical care, food, and legal aid. The Director General of the HNP and the DAP cooperated with the ICRC and the UNDP.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, security forces continued to employ both practices. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or on the basis of a written order by a legally competent official, such as a justice of the peace or magistrate. The authorities can only execute these orders between 6:00 a.m. and 6:00 p.m. and must bring the detainee before a judge within 48 hours of arrest. In practice, officials frequently ignored these provisions. There were also instances of arrests by security forces and local officials lacking proper authority. Ex-FAd'H members and former chefs de section sometimes executed arrest warrants in under-policed rural areas, particularly in the North.

The HNP is officially an autonomous civilian institution. However, despite a cadre of competent and committed officers trained by foreign authorities, HNP officials at all levels were implicated in corruption and narcotics trafficking under the Aristide Government. The Aristide Government filled many key HNP positions with allies and corrupt or political elements lacking experience, training, and credibility. The politicization of the HNP facilitated both political violence and drug trafficking. During the year, under the IGOH, the HNP inducted one class of new recruits, all of whom were vetted by the human rights community.

The U.N. established the civilian police (CIVPOL) element of MINUSTAH to supplement the police. Once CIVPOL deployed with the HNP to conduct operations, the HNP's capacity to maintain order improved.

Certain police jurisdictions routinely disregarded the 48-hour requirement to present detainees before a judge, and some detainees were held for extended periods in pretrial detention. Police often apprehended persons without warrants, or on warrants not issued by a duly authorized official. According to AI, in some provincial towns where there was no governmental presence after February 29, the ex-FAd'H occupied police stations and detained persons, with or without warrants. The authorities frequently detained individuals on unspecified charges or pending investigation. Under President Aristide, the Government often resorted to arrest and detention on false charges or on the charge of "plotting against the security of the State," particularly in political or personal vendettas (*see* section 4). The situation

improved under the IGOH, but several former members and supporters of the Lavalas regime who were suspected of human rights abuses, fomenting violence, or other crimes were arrested without proper warrants due to high levels of corruption in the judiciary. Detainees generally were allowed access to family members and a lawyer of their own choosing. Many detainees could not afford the services of an attorney, and the Government did not provide free counsel. Bail was available at the discretion of the investigative judge. Bail hearings are not automatic, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds such as a need for medical attention.

In early May, police arrested Annette Auguste "So Anne," a self-proclaimed pro-Lavalas community organizer, in downtown Port-au-Prince and charged her with acting as the architect of the December 2003 attack on state university students in Port-au-Prince. She remained in prison at year's end.

Also in early May, HNP officers arrested without warrant Jean Maxon Guerrier, former Lavalas Mayor of the district of Delmas. The authorities failed to charge him with any crime and released him 1 week after his arrest.

On October 2, the HNP arrested without a warrant three former Lavalas parliamentarians: Former Senate President Yvon Feuille, Senator Gerard Gilles, and former Chamber of Deputies member Roudy Heriveaux. The police claimed that they caught the three openly supporting and organizing a campaign of violence by pro-President Aristide supporters in Port-au-Prince that began on September 30. The police released Gilles a few days after his arrest; however, they later charged Feuille and Heriveaux with acting as the intellectual authors of the October campaign of violence in Port-au-Prince. On December 24, a judge granted them a provisional release pending the completion of the investigation of the charges against them.

On October 13, police went to the residence of Father Gerard Jean-Juste, a well-known Catholic priest and pro-Aristide activist, in an effort to question him on possible involvement in a campaign of violence. Father Jean-Juste was uncooperative, and the police arrested him without warrant. The police held him for 1 week, without a judicial determination, on suspicion of "posing a threat to public order." On October 20, the State Prosecutor formally charged Father Jean-Juste with "plotting against the security of the State." He was transferred to the National Penitentiary on October 21 and was subsequently granted a provisional release on November 29, pending completion of the investigation of the charges against him.

Prosper Avril, former general and head of the military government from 1988 to 1990, escaped from the National Penitentiary on February 29 and had not been re-arrested at year's end.

There were no developments in the pending trials of former Army officers Ibert Blanc, Rosalvo Bastia, and Pastor Ceriphin Franck, who were arrested without charges in February 2003 and later accused of conspiring against the security of the State.

Prolonged pretrial detention remained a serious problem; however, discrepancies in HNP documentation made it impossible to determine what percentage of prisoners were in pretrial detention.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, in practice, the judiciary was subject to significant influence by the executive and legislative branches. Years of extensive corruption and governmental neglect left the poorly organized judicial system largely moribund. Judges assigned to politically sensitive cases complained about interference from the executive branch. In the aftermath of the violence surrounding President Aristide's departure, the judicial system was nonfunctional for several months. The judicial system gradually reassembled itself in the spring, after the establishment of the IGOH and the installation of a Minister of Justice, but it remained weak with limited capacity to carry out normal judicial activities.

At the lowest level of the justice system, justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Thirty appeals court judges hear cases referred from the first instance courts, and the 11-member Court of Cassation, the country's highest court, addresses questions of procedure and constitutionality. In Port-au-Prince, seven judges sit on a special labor court with jurisdiction over labor disputes, but in the provinces, courts of first instance adjudicate such cases.

The judicial apparatus follows a civil law system based on the Napoleonic Code; the Criminal Code dates from 1832, although it has been amended in some instances. The Constitution provides for the right to a fair public trial; however, this

right was abridged widely in practice. The Constitution also expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice are present or they waive this right; this right also was abridged in practice. While trials are public, most accused persons could not afford legal counsel for interrogation or trial, and the law does not require that the Government provide legal representation. Despite the efforts of local human rights groups and the international community to provide free legal aid, many interrogations occurred without presence of counsel. However, some defendants had access to counsel during trials. The Constitution provides defendants with a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf; however, in practice, corrupt and uneducated judges frequently denied defendants these rights.

Systemic problems including under funding and a shortage of adequately trained and qualified justices of the peace, judges, and prosecutors created a huge backlog of criminal cases, with many detainees waiting months or in pretrial detention for a court date (*see* Section 1.d.). There was no legal redress for prolonged pretrial detention following acquittal or dismissal of charges.

In most regions, judges lacked the basic resources to perform their duties. Professional competence sometimes was lacking as well. The qualifying yearlong course at the Magistrates' school requires no previous legal training. Judges increasingly conducted legal proceedings exclusively in Creole rather than French, but language remained a significant barrier to full access to the judicial system (*see* Section 5). UNDP, supported by the Government, provided additional training for many segments of the judicial system, including new judges and attorneys.

On March 31, an assailant beat and berated Judge Napela Saintil for having convicted (in absentia) Louis-Jodel Chamblain for the latter's role in the 1994 Raboteau massacre. Saintil identified his assailant as Leon LeBlanc, a neighbor who was arrested on April 3 and remained in prison at year's end.

The Constitution sets varying tenure periods for judges above the level of justice of the peace.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes, dividing the authority among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often received files that were empty or missing police reports. Autopsies were conducted rarely, and autopsy reports seldom were issued. The Code provides for 2 criminal court sessions ("assises") per year in each of the 15 first instance jurisdictions for all major crimes requiring a jury trial; each session generally lasts for 2 weeks. Criminal assizes in Port au Prince have met once a year since 1998.

During the first criminal assize held under the IGOH on August 16, former paramilitary leader Louis-Jodel Chamblain and former Port-au-Prince police chief Jackson Joanis stood trial on charges stemming from their convictions in absentia for the death of businessman and Lavalas supporter Antoine Izmery in 1995. Chamblain fled to the Dominican Republic to avoid prosecution and returned during February as a leader of the armed rebellion against former President Aristide. On April 22, he surrendered to police. Joanis escaped from prison during the events of February 29 but on August 9, surrendered to the police. Under the law, their voluntary surrender to the police cancelled their convictions and entitled them to a retrial.

On August 17, the Criminal Court of Port-au-Prince acquitted Chamblain and Joanis. The poor quality of the State's case due to lack of adequate preparation, a dearth of evidence, and an absence of key witnesses marred the retrial; however, at year's end, Chamblain and Joanis remained in custody to face separate charges for their alleged roles in other human rights violations, notably the 1994 Raboteau massacre (Chamblain) and the 1994 murder of Father Jean-Marie Vincent (Joanis). The timing of the trial, the verdict, and the subsequent threat of a lawsuit to harass human rights activists called into question the IGOH's commitment to respect for the rule of law and the strengthening of democratic institutions in the country (*see* Section 4).

Citizens deported to the country after completing prison sentences in foreign countries were detained until a family member agreed to take custody of them and their prison release order was processed, although there is no provision for such detention in the law. This generally took 1 to 2 months, but lasted as long as 4 months in unusual instances.

There were no reports of political prisoners. Some groups loyal to former President Aristide alleged that there were over 55 Lavalas political prisoners in jail for purely political reasons during the year. Three prominent Lavalas prisoners, Parliamentarians Yvon Feuille, Rudy Heriveaux, and activist Lesly Gustave were released on December 24; others such as former Prime Minister Yvon Neptune and a former

Minister of Interior remained in jail at year's end, still awaiting investigation into charges against them (*see* Section 1.d.). The remaining Lavalas partisans still behind bars have been implicated in criminal or human rights abuses, but their cases remained mired in the judicial system where they awaited final determination.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices; however, police and other security force elements routinely conducted searches without warrants.

When the HNP arrested Father Gerard Jean-Juste, the police did not have the proper search or arrest warrants.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—As the year began, the political impasse and violence stemming from the controversial results of the May 2000 legislative and local elections erupted into an armed revolt led by ex-soldiers, many of whom previously had been implicated in human rights abuses. In the days that preceded and succeeded Aristide's February 29 departure, conflict between anti-Aristide and pro-Aristide groups increased, with instances of abuse reported on both sides. On February 5, the anti-Aristide Artibonite Resistance Front seized control of the city of Gonaives. Throughout the remainder of February, other armed groups opposed to the Aristide Government, including members of the ex-FAd'H, seized control of numerous towns, mostly with little resistance from local police. On February 29, amid escalating violence between government forces, rebel groups, and pro-Aristide paramilitaries armed by the Aristide Government, President Aristide submitted his resignation and departed the country. Following Aristide's departure, power vacuums developed in many provincial cities and rural towns, such as Cap Haitien, Hinche, and Petit-Goave, which lacked sufficient governmental security presence. In many of these places, heavily armed ex-FAd'H and former FRAPH members moved in to fill this void. Their activities produced credible reports of extrajudicial killings and retribution killings of Lavalas partisans throughout the year. Pro-Lavalas partisans also were implicated in violence and numerous killings in Port-au-Prince, including of police officers. Members of the HNP continued to commit extrajudicial killings. At year's end, IGOH authority largely was limited to central Port-au-Prince, with pro-Aristide groups in control of many of the Port-au-Prince slums, and anti-Aristide rebels in control of many towns in the countryside.

On January 7, members of Lavalas popular organizations (OPs) attacked an anti-Aristide demonstration organized by State University students and the Democratic Platform in Port-au-Prince. After the demonstration was dispersed, armed civilians patrolled the city shooting in various directions and hindered demonstrators from returning home. During the violence, three demonstrators were killed, and several dozen persons were injured.

On January 11, an unknown assailant shot and killed a pro-Lavalas demonstrator nicknamed "Sonson," during an anti-Aristide demonstration in the provincial town of Miragoane. In response to the killing, other pro-Lavalas demonstrators set fire to seven private homes, cars, and businesses owned by opposition members. The crowd then attempted to burn opposition member Maxeau Gabriel (who survived the attack) and another person while in the hospital. Gabriel escaped from the hospital and fled to Port-au-Prince for medical attention.

From February 9–29, large-scale politically motivated violence occurred in St. Marc between members of the pro-Aristide group Bale Wouze ("clean sweep") and the opposition-affiliated group Assembly of Militants for the Commune of St. Marc (RAMICOS). On February 11, members of the HNP's CIMO unit along with heavily armed civilians from Bale Wouze laid siege to inhabitants of RAMICOS's neighborhood stronghold La Syrie, resulting in summary executions, kidnappings, torture, and other acts. According to the victim's assistance group for the residents of La Syrie, more than 50 persons were killed or reported missing, and several dozen houses either were ransacked and partially destroyed or burned.

Residents of La Syrie claimed that on February 9, then-Prime Minister Yvon Neptune sparked the violence during a visit to St. Marc. The IGOH subsequently accused Neptune of being the intellectual author of the events. On June 27, Neptune surrendered to police and was charged with "ordering and participating in the massacre against the population of St. Marc" and for being responsible for "the burning of numerous homes in St. Marc during the month of February." He remained in the National Penitentiary awaiting trial at year's end (*see* Section 1.d.).

In the period of violence and instability that followed Aristide's February 29 departure, the Institute for Justice and Democracy in Haiti documented a number of cases of reprisals against persons associated with the Aristide government.

On March 2, Lavalas activist Andre Edward was shot twice in the back and killed on his way home.

On March 7, Francillon Auguste, a member of the Aristide Foundation for Democracy, was severely beaten and later died of his injuries.

In March, unknown assailants shot and killed 18-year-old Cassie Auguste outside of Gonaives. Witnesses and family members attributed Cassie's killing to a presumed association with pro-Lavalas chimeres, based on his dreadlock hairstyle, by local anti-Lavalas partisans. The authorities had made no arrests for the killing by year's end.

On April 4 and 5, two brothers and activists of a pro-Lavalas popular organization were kidnapped by a group of armed men and reportedly killed.

In the period before, during, and in the immediate aftermath of former President Aristide's resignation, there were numerous accounts of attacks on, and killings of, members of the media by both pro- and anti-Aristide groups (*see* Section 2.a).

From September 30 through November, pro-Aristide partisans in Port-au-Prince launched a campaign of destabilization and violence known as "Operation Baghdad" (*see* Section 2.b.). This campaign included kidnapping, decapitation and burning of police officers and civilians, indiscriminate shooting at bystanders such as taxi drivers, students, parents and small merchants, and the destruction and incineration of public and private property. The violence prevented the normal functioning of schools, public markets, the seaport, and the justice system in Port-au-Prince for several weeks. The violence sporadically interrupted the delivery of humanitarian goods to the victims of Hurricane Jeanne in and around Gonaives. The armed groups responsible for the campaign claimed affiliation with the Lavalas party and demanded the return of former President Aristide. Most groups originated in populist, pro-Aristide areas of Bel Air, Martissant, La Saline, and Lower Delmas.

From October 1 to 26, the public morgue of the state university hospital registered 127 gunshot-inflicted injuries and 63 deaths. Most of the injured came from the Martissant, La Saline, and Lower Delmas areas while the deceased originated from Fort National, Bel Air, Cite Soleil, and Carrefour.

A police officer was killed on September 30 during the pro-Lavalas demonstration that sparked the violence.

On October 1, the bodies of two other police officers, Jean Jodelere and Jimmy Charles, who were kidnapped on September 28, were discovered.

On October 26, 13 young persons were summarily executed in the Fort National area of Port-au-Prince. Many witnesses attributed the killings to the HNP; however, it was not possible to determine responsibility for the act. Although accounts vary, several witnesses claimed that 5 hooded men dressed in black, driving an HNP vehicle without license plates, appeared on the scene, entered a house known to sell drugs, and shot the 13 persons inside of the house. The Prime Minister and chief of police categorically rejected any police involvement in the crime; however, two active-duty police officers were arrested as the police investigation continued at year's end.

On November 3, police chief of Port-au-Prince's fire brigade, Louis Dieufene, was shot and killed on his way home from work in the Poste Marchand area of the capital. The HNP claimed that the killing was carried out by pro-Aristide partisans who were acting out against the IGOH.

In response to the violence that began on September 30, the HNP conducted sweeps of heavily pro-Aristide areas of Port-au-Prince in search of the perpetrators. Many arrests were conducted without warrants, and suspects were held in prolonged detention without seeing a judge (*see* section 1.d.). From October 7–13, 171 persons were rounded up and questioned by police; some were released shortly after questioning while others suspected of having direct involvement in the violence were detained. Press reports claimed that from September 30 through early November, over 100 persons were killed in the violence.

The MIF, present from the beginning of March until the end of May, killed six persons. According to the MIF, the use of force in all instances was necessary to protect lives.

On March 9, MIF forces shot and killed two persons near the residence of then-Prime Minister Yvon Neptune. A MIF spokesperson stated that the forces returned fire on gunmen who were shooting from a nearby rooftop.

On March 12, while patrolling the pro-Aristide district of Bel-Air, MIF forces reportedly killed at least two men during an exchange of gunfire.

On December 14, MINUSTAH conducted an operation in Cite Soleil to help the HNP reestablish a presence and to provide order to the capital's largest slum. There were no reported civilian deaths attributed to MINUSTAH forces.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Several times during the year, the Government publicly expressed support for free expression; however, before President Aristide's departure, there were several documented attacks on members of the press. Print and electronic media freely criticized the Government and opposition. However, in practice most media admitted to some form of self-censorship to avoid offending sponsors or the politically influential. The Government did not restrict academic freedom.

There were three French-language newspapers in the country. The newspapers had a combined circulation of less than 20,000 readers. The former government's L'Union was a government-run newspaper whose editor was the Secretary of State for Communication; however, in May, the IGOH's Minister of Culture and Communication, Magali Comeau-Denis, closed the newspaper. Some irregularly printed papers frequently criticized IGOH policies and strongly supported the Lavalas regime. There was virtually no Creole-language press. Several weeklies and monthlies produced by the foreign-based Diaspora, circulated in Port-au-Prince.

With a literacy rate of approximately 52–60 percent and limited access to television, the most important medium was radio, especially stations broadcasting in Creole. The 307 radio stations carried a mix of music, news, and talk show programs that many citizens regarded as their only opportunity to speak out on a variety of political, social, and economic issues. At least 133 unlicensed radio stations were in operation. There were 50 community radio stations and 20 radio-televisions. Uncensored foreign satellite and cable broadcasts were available but limited in impact because most citizens could not afford televisions. The few stations carrying news or opinion freely broadcasted a wide range of political viewpoints.

Although most radio stations and other forms of telecommunication nominally were independent, they were subject to a 1997 law designating the State as the sole owner and proprietor of the airwaves. The State leases broadcast rights to private enterprises, retaining preemption rights in the event of a national emergency, including natural disasters. The Government did not exercise this right in practice.

On February 18, government spokesmen and Lavalas OP leaders issued threats to the media, specifically mentioning five key media targets: Radio stations Vision 2000, Caraibe FM, Radio Kiskeya, Radio Metropole, and the television station Tele-Haiti.

During the year, pro-President Aristide and Ex-FAd'H members attacked and, in some cases, killed members of the media.

In February, threats and harassment by pro-Lavalas supporters forced Radio Maxima in Cap Haitian also to close after its Director, Jean Robert Lalane, was shot and injured.

On February 5, Lavalas gang members beat Yves Bastien for broadcasting an interview with Roger Binry, who implicated government officials Jean Claude Jean Baptiste and Simson Liberus in the January 13 sabotage of the radio and television station broadcasting equipment in Boutilliers.

On February 27, pro-government gangs and partisans of former Lavalas Deputy Nawoon Marcellus burned the Northern branch of Radio Vision 2000 in Cap Haitian and sabotaged its Port-au-Prince branch. Those responsible remained at large at year's end.

On March 1, Radio Solidarite stopped broadcasting news after receiving threatening telephone calls; there was no investigation into the threats, and broadcasts resumed on April 6.

In early March, an anti-Aristide armed group reportedly shot at the home of Elysee Sincere, a correspondent for Radio Vision 2000 in the city of Petit-Goave. Sincere had filed a report that two groups were fighting for control of the town. The attackers burned his car and injured a relative of his.

The men in jail for the killings of two journalists, Brignol Lindor and Jean Dominique, escaped on February 29. In August, the police rearrested Dynsley Millien and Jeudi-Jean Daniel, two of those charged with Dominique's death. Phillippe Markington, the other person charged in Dominique's death, remained at large at year's end. In March, police arrested Port-au-Prince deputy mayor Harold Severe and security agent Rouspide Petion for alleged involvement in the slaying. On July 1, the Supreme Court rejected an appeal by Daniel, Millien, and Markington. The Court's rejection meant that a new examining judge could be named to conduct another investigation.

The Government did not limit access to the Internet.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, former President Aristide's government's increased repression of planned events and periodic prohibition of demonstrations ignored that freedom. Although some organizations were able to exercise this right without hindrance throughout the year, numerous violations frequently occurred in the capital

as well as in the provinces in the first 2 months of the year. Authorities frequently failed to provide police protection for opposition parties, student groups, and women's groups conducting peaceful demonstrations. Authorities often transported pro-Aristide supporters, armed and unarmed, to announced opposition events and failed to arrest them for throwing rocks or bottles at the demonstrators. The IGOH generally respected the right of citizens to peacefully demonstrate; however, the HNP sometimes used force to control violent demonstrations (*see* Section 1.g.).

Using tear gas and firing into the air, members of the HNP's riot control unit dispersed a January 1 demonstration organized by the opposition's Democratic Platform party and civil society.

On January 21, the HNP stopped students from holding an anti-government demonstration by firing live ammunition into the air and lobbing tear gas grenades into the group. The students were never able to get their demonstration started; however, across town in Delmas, pro-Aristide demonstrators marched without hindrance. The crowd eventually made their way to the National Palace where police allowed them past street barricades and up to the Palace gates where they reportedly met with President Aristide.

On January 27, the HNP banned all street demonstrations; however, opposition groups defied the ban and continued to demonstrate.

Many students who participated in the anti-Aristide student demonstrations in December 2003 reported threats during the year from police officers and gang members who collaborated with the police. The students and their families became targets of harassment that prompted some students to leave their homes and to go into hiding.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. The Penal Code requires prior government approval for any association of more than 20 persons that seeks tax benefits and official recognition from the Government.

c. Freedom of Religion.—The Constitution provides for the right to practice all religions and faiths, provided that practice does not disturb law and order, and the Government generally respected this right in practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits the involuntary exile of citizens, and there were no reports of its use. During the year, former Aristide government officials often imposed internal and external exile upon themselves and their families for fear of retaliation by rebel groups or former military members (*see* Section 1.g.).

An unknown number of undocumented migrants left the country to seek better economic opportunities. The Government's National Migration Office (ONM) was responsible for assisting citizens repatriated from other countries and frequently provided small sums of money to repatriated migrants for transportation. During the year, the ONM assisted 3,706 repatriated citizens.

The law provides for the granting of refugee status or asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

In March, the IGOH imposed a foreign travel ban on former Lavalas administration and police officials. The list included the names of 61 former officials accused of human rights violations and other crimes. Human rights groups and the international community criticized the ban, and on September 30, the Government lifted the travel restriction for all individuals without charges pending against them.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

In practice, the political system changed significantly following President Aristide's February 29 resignation and departure from the country.

Boniface Alexandre, President (Chief Justice) of the Supreme Court, assumed office as interim President in accordance with the Constitution. On recommendation from the Council of Eminent Persons, who had been chosen by a Tripartite Commis-

sion including representatives of FL, the Democratic Platform, and the international community, the President chose Gerard Latortue as interim Prime Minister.

On April 4, representatives of the IGOH, leaders of CD, the Group of 184, and at least one branch of the "non-aligned" parties agreed on a transition accord outlining the IGOH's mandate and committing it to organize elections in 2005. No representative of FL participated in the negotiations or signed the document, but the President's Chief of Staff announced that the document would remain open for all parties, including Lavalas, to sign. At year's end, FL leaders had not signed the transition accord, although some Lavalas representatives endorsed the IGOH.

To implement the commitment to hold elections in 2005, the Government agreed to appoint a nine-person Provisional Electoral Council (CEP), with representatives from several parties including FL. When FL refused to nominate its representative, the Government appointed eight members; after several weeks, it appointed a ninth member to fill the FL slot. The CEP proceeded with its mandate and announced that municipal elections would be held on October 9, 2005 and the first round of legislative and presidential elections on November 13, 2005.

At year's end, many Lavalas members and foreign and domestic supporters charged that the IGOH had been pursuing a strategy designed to prevent FL from participating in the electoral process. Some groups alleged that more than 100 members of the FL had been imprisoned illegally. The IGOH responded that it had only detained those members of FL who had been accused of committing crimes. Three FL partisans were arrested in October for their alleged role in planning attacks during Operation Baghdad. On December 24, the IGOH released the FL members while the investigation into their case continued; however, Yvon Neptune, the former Prime Minister, remained imprisoned at year's end on charges related to the killings in La Syrie.

Transparency International noted that the country was extremely corrupt, and there was a widespread public perception of corruption in all branches of government.

The monetary deposit required of female candidates for political office (if sponsored by a recognized party) is one-half that required of male candidates. Three of the IGOH's 17 cabinet ministers were women.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The IGOH cooperated with the various human rights observation missions and generally acknowledged their views but lacked the capacity to implement their recommendations. The Government permitted special missions and the continued presence of U.N. bodies and other international organizations such as the ICRC, the U.N. Independent Expert on Human Rights, the UNDP, the IACHR, and the Organization of American States' Special Mission's human rights office. However, threats, intimidation, and harassment from suspected human rights abusers and other sources against domestic NGOs continued during the year.

Based on a recommendation from the U.N. Independent Expert on Human Rights, in March, a representative from the office of the U.N. High Commissioner for Human Rights (UNHCHR) conducted a 6-month assessment mission on the possibility of opening a permanent UNHCHR office in the country and concluded that such an office should be opened. The U.N. integrated an UNHCHR element into the peacekeeping force structure that included guidance and administration by an UNHCHR representative.

From September 1–3, IACHR conducted an on-site visit to the country at the request of the IGOH. Based on their meetings with government officials, including the HNP Director General and the Minister of Justice, U.N. representatives, and local human rights organizations, the IACHR delegation concluded that the security situation in the provinces and the reemergence of armed groups who attempted to control those areas; the weak state of the administration of justice and the ongoing problem of impunity; violence against individuals based on their affiliation, perceived or real, with former President Aristide and his party; and rape of women and girls by armed groups meant that the basic rights and freedoms of citizens remained weak and imperiled. The Commission urged the IGOH to rectify the deficiencies and to make the protection of human rights a central component of the Government's work.

At the national and international levels, human rights organizations were active and effective in monitoring human rights issues, meeting frequently with government officials. Human rights organizations, including the Platform of Haitian Human Rights Organizations, the NCHR, the Lawyers' Committee for the Respect

of Individual Rights (CARLI), the Ecumenical Center of Human Rights, and the Catholic Bishops' National Commission on Justice and Peace, made frequent media appearances and published objective reports on violations. Human rights organizations continued to focus on issues that were persistent problems in the country, including prison conditions, the widespread lack of health facilities, and impunity for criminals. All reported receiving threats as a result of their work.

On February 6, human rights activist Kettly Julien of the Mobile Institute for Democracy Education and former regional HNP Director for the Artibonite Edouard Petit-Homme were arrested and held for a week on charges of "plotting against the security of the State." On February 10, a judge released Julien but Petit-Homme remained in jail until prison doors were opened releasing prisoners around the country in the days following February 29.

On March 24, a substitute justice of the peace for the Delmas district of Port-au-Prince, accompanied by several men, arrived at CARLI's office and threatened to kill the staff because CARLI listed the judge on its monthly hotline list of human rights abusers. The threat was never carried out, but CARLI reported other incidents of harassment concerning their hotline reports.

In June, local human rights activists reported a decline in the number of human rights violations throughout the country, while noting that the situation in the provinces remained tenuous due to lack of an effective governmental or police presence.

In September, three members of the jury for the Chamblian/Joanis trial filed defamation of character charges against three members of local human rights organizations, Viles Alizar of NCHR, Renan Hedouville of CARLI, and Eliphete Saint-Pierre and Maxime Rony of the Platform of Human Rights Organizations for allegedly accusing jurors of being FRAPH sympathizers and therefore incapable of rendering a decision against the defendants (*see* Section 1.e.). The human rights groups viewed the lawsuits as government-condoned harassment. The judge later dropped the charges for insufficient evidence.

The Office of the Protector of Citizens (OPC), an ombudsman-like office provided for by the Constitution, received complaints of abuse at all levels of government. The Government did not directly impede OPC investigations but did not always respond to its requests for information. Relations between the OPC and major human rights organizations such as the Platform for Human Rights and CARLI continued to be positive. Budgetary problems limited the OPC to four employed investigators, which hindered its ability to investigate human rights abuses.

The Parliament's Justice and Human Rights Committee did not have a high profile and focused largely on judicial issues.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution does not specifically prohibit discrimination on the grounds of race, sex, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status. However, there was no effective governmental mechanism to administer or enforce these provisions.

Women.—The law provides penalties for rape and domestic violence against women. The degree of penalty correlates to the severity of the rape and the criminal court judge must decide on the actual penalty; however, the Government did not enforce these provisions adequately. According to women's rights groups and human rights organizations, rape and other abuses against women were commonplace and increased, both within and outside marriage. Women's shelters and organizations reported that local armed thugs frequently raped and harassed girls and women in the slums such as Cite Soleil and Martissant. Police authorities rarely arrested the perpetrators or investigated the incidents, and the victims sometimes suffered further harassment in retaliation. In April, one woman told AI delegates that she had received threats from a police officer who had been charged along with four other persons with raping her but had escaped from prison on February 29. In October, press reports quoted a representative from the CARLI that in August, 25 cases of rape by ex-soldiers had been reported. The Haitian Group for the Study of Karposi's Syndrome and Opportunistic Infections reported that from July to September, 81 women came for treatment after having been raped. The majority of assaults took place in Port-au-Prince. There were no government sponsored programs for victims of violence. The Criminal Code excuses a husband who kills his wife or her partner upon catching them in the act of adultery in his home, but a wife who kills her husband under similar circumstances is not excused.

Prostitution was illegal; however, it remained a problem.

The law does not specifically prohibit sexual harassment, although the Labor Code states that men and women have the same rights and obligations. Sexual harassment of female workers was a problem, especially in the assembly sector (*see* Section 6.b.).

Women did not enjoy the same social and economic status as men. In some social strata, tradition limited women's roles. A majority of peasant women remained in traditional occupations of farming, marketing, and domestic labor. Very poor female heads of household in urban areas also often had limited employment opportunities, such as domestic labor and sales. Laws governing child support recognize the widespread practice of multiple father families but rarely were enforced. Female employees in private industry or service jobs, including government jobs, seldom were promoted to supervisory positions. However, well educated women have occupied prominent positions in both the private and public sector in the past several years.

The Ministry of Women's Affairs is charged with promoting and defending the rights of women and ensuring that they attain an equal status in society, but had few resources at its disposal and was able to accomplish little in this regard.

Domestic women's rights groups were small, localized, and received little publicity.

Children.—Governmental agencies and programs to promote children's rights and welfare existed, but the Government lacked the capacity to adequately support or enforce existing mechanisms. Malnutrition was a major problem. According to the U.N., approximately 42 percent of all children under 5 were chronically malnourished. In December, UNICEF reported that 60 percent of rural households and 32 percent of urban households suffered from chronic food insecurity. The Government has a school nutrition program, administered through the Office of National Development and supported by foreign donors. Through this program, health clinics and dispensaries distributed donated food to children.

The Constitution and the law provide for free, universal, and compulsory primary education. However, in practice, most rural families did not have access to public schools. The costs of school fees, books, materials, and uniforms, even in public schools, were prohibitive for most families, and an estimated 90 percent of schools were private. Schools were dilapidated and understaffed. According to the Government, 40 percent of children never attend school. Of those who do, less than 15 percent graduate from secondary school. The Ministry of Education estimated primary school enrollment at 65 percent. Poorer families sometimes rationed education money to pay school fees only for male children.

Child abuse was a problem. Government-sponsored radio commercials urged parents not to abuse their children physically or mentally. There was some anecdotal evidence that in very poor families, caretakers deprive the youngest children of food to feed older, income generating children.

The law prohibits corporal punishment of children, and all schools must post clearly their disciplinary policies. The law also called for the establishment of a commission to determine appropriate school disciplinary measures. In practice, corporal punishment was accepted as a form of discipline.

There were reports that children were trafficked within the country and forced to work as domestic servants (*see* Section 5, Trafficking).

Port au Prince's large population of street children included many domestic servants, who were dismissed from or fled employers' homes (*see* Section 5, Trafficking). The Ministry of Social Affairs provided some assistance to street children.

On January 24, HNP officers shot and killed orphan Frantzy Pierre in downtown Port-au-Prince.

On January 27, an orphaned street vendor named Erick Voltaire was shot and killed by armed individuals who were suspected of having links to the Port-au-Prince police station.

At the end of October, UNICEF issued a statement denouncing a campaign of violence targeting street children. On October 27, the bodies of four street children, two decapitated, were discovered in the public morgue. There were reports that unknown armed assailants roamed the capital and used the street children for target practice.

On November 14, Wilfort Ferdinand "Ti Will," former member of the Cannibal Army and current member of the Reconstruction Front of the Artibonite, shot and killed 6-year-old Francesca Gabriel in Gonaives during a lovers' dispute. He had not been brought to justice by year's end.

The Ministry of Labor and Social Affairs' hotline for child abuse victims received more than 720 calls leading to action on 158 cases, either through initiation of criminal action against an abusive adult or removal of the child from an abusive situation. Eighty-three percent of the children involved in these cases were in domestic service, many were under the age of 12, and many reported abuses such as beatings, rape, and malnutrition. The work of the hotline was hampered by destruction of The Ministry of Labor and Social Affairs' Social Welfare and Research Institute's (IBESR) offices in the lawlessness following President Aristide's departure,

but IBESR did retain the four additional monitors it hired in August 2003 to rescue children believed to be working in forced labor situations. Government officials placed rescued victims in shelters and in the care of local NGOs, such as Foyer Maurice Sixto, a children's shelter located in Port-au-Prince.

Several international and local NGOs worked on children's issues. The Pan-American Development Foundation conducted training programs around the country for government officials and for persons who worked with children. UNICEF and Save the Children Canada and UK, in conjunction with local NGOs such as the Haitian Coalition for the Defense of the Rights of the Child (COHADDE), promoted children's rights by conducting studies of children's issues, most notably a study on child domestic labor (*see* Section 5, Trafficking), and awareness raising activities in the country.

Trafficking in Persons.—The law prohibits trafficking in women and children; however, internal trafficking of children for domestic labor remained a problem, and the country also was a source for trafficked persons to the Dominican Republic, the United States, Europe (mainly France), and Canada.

There were no penalties for trafficking in persons. The Government acknowledged the problem of internal trafficking and took steps to address it, despite the political crisis early in the year. The HNP's Brigade for the Protection of Minors (BPM) was created in May 2003 as a special unit under the HNP charged with investigating cases of child trafficking and monitoring movement of children across the border with the Dominican Republic. The BPM was functional; however, resource issues remained a barrier to its operational capacity. Government officials at local and national levels were trained on the legal framework for children's rights and methods of intervention to prevent and punish acts of child domesticity (restaveks) and trafficking. Interim President Boniface Alexandre denounced the restavek practice and called on his cabinet to take a more proactive role in the fight against trafficking in persons when he addressed a rally in commemoration of International Children's Day on May 13.

In May 2003, the results of a joint governmental-NGO funded study, which covered the fiscal years 2001–02, noted that 173,000 children (8.2 percent) between the ages of 5 and 17 years, worked as restaveks. Labor laws require anyone who has a child domestic in their employ to obtain a permit from IBESR and to ensure the overall welfare of the child until they reach 15 years of age. Additionally, the law requires that restaveks 15 years of age and older be paid not less than one half the amount paid to an adult servant hired to perform similar work, in addition to room and board. To avoid this obligation, employers dismissed many restaveks before they reached that age.

The results of the most recent study of trafficking across the border conducted by UNICEF in August 2002 reported that between 2,000 and 3,000 children were trafficked to the Dominican Republic each year.

Rural families continued to send young children, particularly girls, to more affluent city dwellers to serve as restaveks in exchange for that child's room and board. While some restaveks received adequate care, including an education, the Ministry of Social Affairs believed that many employers compelled the children to work long hours, provided them little nourishment, and frequently abused them (*see* Section 5, Children). The majority of restaveks worked in low-income homes where conditions, food, and education for nonbiological children were not priorities.

In August 2003, the Ministry of Foreign Affairs approved the creation of three additional consulates along the Dominican border, which were charged with monitoring the movement of children across the border. The Ministry of the Interior also reinforced agents at border control points at the three international airports to watch for children who might be traveling unaccompanied or without their parents. The Ministry of Justice continued to circulate memorandums to magistrates around the country in an awareness-heightening campaign on the anti-trafficking law and on child labor laws. To address some of the social aspects of the restavek practice, the Government provided a subsidy of 70 percent for educational supplies, including books and uniforms. The Government also called on employers of child domestics to release them from their duties in the afternoon to allow them the opportunity to attend school.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The Constitution provides that persons with disabilities shall have the means to ensure their autonomy, education, and independence. However, there was no legislation to implement these constitutional provisions or to mandate provision of access to buildings for persons with disabilities.

Other Societal Abuses and Discrimination.—Societal discrimination occurred against persons with HIV/AIDS, particularly women, but educational programs and HIV/AIDS activists attempted to change that stigma.

On June 29, a woman and her two children, ages four and five, were thrown out of a hospital in Jacmel after a medical test revealed that all three were HIV-positive.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Labor Code provide for the right of association, which was generally respected in practice; however, the Labor Code dates from earlier governments and is far more restrictive. For instance, there is no legislation protecting the right of public employees to organize. The International Labor Organization (ILO) Committee of Experts commented on the need for the Government to recognize by law the right of public servants to organize. For legal recognition the law also requires that a union, which must have a minimum of 10 members, register with the Ministry of Labor and Social Affairs within 60 days of its formation. The law prohibits employers, management, and anyone who represents the interests of employers from joining a union. In theory, unions are independent of the Government and political parties. Nine principal labor federations represented approximately 5 percent of the labor force. Union membership decreased significantly, but unions remained active in the public sector.

b. The Right to Organize and Bargain Collectively.—The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right; however, in practice the Government made little effort to enforce the law.

High unemployment rates and anti-union sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining was nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better than average wages and benefits. However, frequent verbal abuse and intimidation of workers and organizers were problems in the assembly sector. Female workers in the assembly sector reported that some employers sexually harassed female workers with impunity. Women also reported that while most assembly sector workers were women, virtually all supervisors were men. Workers had access to labor courts established to resolve common labor-management disputes; however, the courts' judgments were not enforced. The courts function under the supervision of the Ministry of Labor and Social Affairs and adjudicate minor conflicts, but unions stated that the process was inefficient. Seven labor courts operated in Port-au-Prince, and in the provinces plaintiffs utilized municipal courts.

The Labor Code provides for the right to strike, and workers (with the exception of managers, administrators, other heads of establishments, and public utility service workers) exercised this right in practice. The Labor Code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." There were few public sector strikes during the year.

There was one export processing zone (EPZ) located in Ouanaminthe, a town on the Dominican border. Legislation governing free trade zones provide that the Labor Code applies in the EPZs, and the Government signed an agreement with textile company Grupo M to build a production facility in a newly established free trade zone on the border near Ouanaminthe. In October 2003, the International Finance Corporation (IFC) approved a loan to the company. Its provisions stipulated a social compensation plan for farmers and landowners displaced by the project. The IFC called for independent investigations into allegations of Grupo M abuse of workers and union organizers. Nevertheless, Batay Ouvriye, a labor organization of peasant workers, strongly opposed the project.

Based on results from the IFC independent investigation, the IFC dispersed the $20 million (720,000,000 Gourdes) loan to Grupo M on January 15, and Grupo M's factory in Ouanaminthe, known by its Creole acronym KODEVI (Company for Industrial Development), opened. The conditions of the loan stipulated that Grupo M sign an agreement to respect the rights of workers to organize themselves into a union, and the Society of KODEVI Workers of Ouanaminthe (SOKOWA) became the officially recognized union at the plant. Since early February, SOKOWA members complained of worker exploitation and mistreatment at the hands of Grupo M management. Rounds of strikes and violence by union members, with the support of Batay Ouvriye, were followed by a series of employee terminations by KODEVI throughout the summer. The lack of any governmental security presence in Ouanaminthe combined with the absence of a labor inspector from the Ministry of Labor and Social Affairs in the factory further complicated the situation and cost

KODEVI a tee-shirt assembly contract. In May, Grupo M laid-off 843 employees from that module, reducing the workforce from 1,300 to 457. In August, the IFC intervened and proposed a binational mediation team. By year's end, there was some progress, although the mediation progress had yet to commence.

c. Prohibition of Forced or Compulsory Labor.—The Labor Code prohibits forced or compulsory labor for adults and minors; however, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as restaveks in urban households, sometimes under harsh conditions (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years. There is also a legal provision for employment of children between the ages of 12 and 16 as apprentices. The Labor Code prohibits minors from working under dangerous conditions and prohibits night work in industrial enterprises for minors under 18. Fierce adult competition for jobs ensured child labor was not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in significant numbers. Government agencies lacked the resources to enforce relevant laws and regulations effectively. According to COHADDE, children worked primarily as restaveks; however, some worked on the street as vendors or beggars, and some were involved in prostitution.

The Government has not ratified and does not adhere to ILO Convention 182 on elimination of the worst forms of child labor.

The Government designated IBESR to implement and enforce child labor laws and regulations. The Government has begun to place a high priority on the eradication of child domestic labor (*see* Section 5). Despite the Government's efforts, the budget for the Ministry remained inadequate to fund adequately programs to investigate exploitative child labor cases throughout the country.

The IBESR coordinated efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies, to formulate and enforce child labor policies.

e. Acceptable Conditions of Work.—The legal minimum daily wage, established in 1995 by the Tripartite Commission of Salaried Workers, whose six members were appointed by the President (two representatives each of labor, employers, and government), is approximately $0.96 (36 gourdes). This wage did not provide a decent standard of living for a worker and family. Some workers were paid on a piece-rate basis and earned more than the minimum wage. The majority of citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply and wages of $0.40 (15 gourdes) a day were common. Many women worked as domestic employees, where minimum wage legislation also does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. However, HNP officers worked 12-hour shifts 6 days per week, in violation of the Labor Code. The Code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. However, the Ministry of Social Affairs did not enforce work hours or health and safety regulations.

There is no provision for the payment of overtime.

The assembly sector published a voluntary code of conduct in 1999, committing signatories to a number of measures designed to raise industry standards, including payment of the minimum wage and the prohibition of child labor. Employers in the assembly sector generally paid the minimum wage or higher. In this sector, working conditions were also generally better and there were no reports of child labor.

There were no formal data, but unions alleged that job-related injuries were prevalent in the construction industry and public works sectors. Although they have the legal right to do so, in practice, with more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

HONDURAS

Honduras is a constitutional democracy, with a president and a unicameral congress elected by separate ballot for 4-year terms. The multiparty political system is dominated by two traditional parties, the Nationalists and the Liberals. In 2001, voters elected Ricardo Maduro of the Nationalist Party president in elections that domestic and international observers judged to be generally free and fair. The Constitution provides for an independent judiciary; however, the judiciary is poorly staffed and equipped, often ineffective, and subject to corruption and political influence.

The Honduran Armed Forces (HOAF) include the army, the air force, and the navy. The Ministry of Public Security oversees police operations, and police are responsible for all internal public security issues. The military are authorized to support law enforcement activities with police upon presidential directive. During the year, nearly half of all military personnel were assigned for most of the time to joint patrols with police to prevent and combat high levels of criminal and gang activity. The civilian authorities maintained effective control of the security forces. Members of the security forces, particularly the police, committed human rights abuses.

The market economy is based primarily on agriculture and, increasingly, on the maquiladora (assembly manufacturing for export) industry. The country has a population of 7.0 million. The Central Bank estimated real economic growth for the year at 4 percent. About two-thirds of the country's households live in poverty, and 45 percent of the population lives on less than $1.00 (18.65 lempiras) per day.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the police committed extrajudicial killings. Well-organized private and vigilante security forces were believed to have committed a number of arbitrary and summary executions. Human rights groups accused former security force officials and the business community of colluding to organize "death squads" to commit extrajudicial, summary, and arbitrary executions, particularly of youth. Security force personnel beat and otherwise abused detainees and other persons. Prison conditions remained harsh, and detainees generally did not receive due process. There was considerable impunity for members of the economic, military, and official elite. A weak, underfunded, and often corrupt judicial system contributed to human rights problems. Although the courts considered allegations of human rights violations or common crimes against armed forces personnel, with some cases going to trial, there were few, if any, convictions. While no senior government official, politician, bureaucrat, or member of the business elite was convicted of crimes, a number were under investigation during the year. The Government removed or demoted some military officials, police officers, police agents and investigators, and judges from office on corruption and other charges. With the new Criminal Procedures Code in effect and an oral accusatory system, lengthy pretrial detention in new cases was less common than in the past; however, cases from previous years remained subject to delays. On occasion, the authorities conducted illegal searches. Other human rights problems included violence and discrimination against women, child prostitution, abuse of children, discrimination against indigenous people, and trafficking in persons. The Government did not enforce effectively all labor laws. Many workers in the private sector were forced to work unpaid overtime. Child labor was a problem, particularly in rural areas, in the informal economy, and in some export agriculture, but generally not in the export-processing sector.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, members of the security forces were suspected of direct involvement in extrajudicial, arbitrary, and summary killings.

The killing of youths and children by vigilante type groups that may have included members of the security forces continued (*see* Section 5).

According to Public Ministry figures from the government's morgues in Tegucigalpa and San Pedro Sula, there were 3,685 persons killed in 2003, a figure that almost certainly undercounted the actual number of murder victims. According to the Ministry of Public Security, 2,079 persons were killed between January and July, compared with 2,822 in the same time period in 2003, figures that also undercount the actual number of victims. While statistics varied by institution, and the Ministry of Public Security figures showed a decline, there continued to be a high homicide rate and a very low case closure rate.

In 2002, a group of armed men in a pickup killed five youths in Tegucigalpa, mimicking a 1995 torture and killing of youths. The 1995 case was under consideration by the Inter-American Commission on Human Rights (IACHR) (*see* Section 1.c.).

During the year, the authorities sought or detained a number of police officials for their involvement in the killings of various individuals, some of whom were minors (*see* Section 5). On April 16, a court found police officer Juan Carlos "Tiger" Bonilla and three other police officials innocent of a 2002 extrajudicial killing. The Public Ministry appealed that decision; however, on August 17, an appeals court upheld the April 16 ruling.

There were deaths in prison during the year (*see* Section 1.c.).

On December 6, alleged gang members shot and killed Christian Democratic congressional candidate Luis Armando Genawer Paguada in Tegucigalpa. An investigation was pending at year's end.

There were no developments in the July 2003 killing by unknown assailants of environmental activist Carlos Arturo "Oscar" Reyes in his home.

On March 7, police arrested Marco Tulio Vasquez Juarez and charged him with the November 2003 killing of Jose Daniel Chinchilla Lara, the Vice President of La Central Cooperativas Cafetaleras de Honduras. The case was pending at year's end.

The case of Arlin Daniel Escobar Moli, arrested for the December 2003 killing of priest Guillermo Antonio Salgado was pending at year's end.

At year's end, no suspects had been captured for the 2002 killing of human rights activist Jose Santos Callejas, treasurer of the local office of the national NGO Human Rights Committee (CODEH), in his home near the city of La Ceiba by presumed members of an organized crime gang. The investigation of individual police officers for involvement in Callejas' killing continued at year's end.

At year's end, police had not arrested any suspects for the November 2001 killing of Nationalist Party congressional candidate Angel Pacheco Leon in Valle department.

Approximately 20 active and former military and police officials continued to face criminal charges in various courts during the year for human rights abuses committed during the 1980s. Most officials were accused of illegal detention and murder because disappearance is not a crime under the new or previous criminal codes (*see* Section 1.b.). On October 19, the Government authorized the Solicitor General to come to an agreement with CODEH on the construction of a monument to those who disappeared in the 1980s. In a speech before human rights NGOs on November 4, President Maduro accepted responsibility on behalf of the Government for human rights abuses in the 1980s and promised to comply with Inter-American Court of Human Rights (IACHR) rulings. Courts do not accept cases if the body of the victim has not been recovered and positively identified. An identified body allows families and human rights organizations to bring a case of suspected human rights abuse to court.

There were no exhumations of clandestine graves during the year. Human rights organizations continued to seek information using grass-roots contacts and other sources outside the Government that would lead to exhumations that would advance prosecutions. Four clandestine grave sites reported by the press in April 2003 still had not been exhumed by year's end.

The Public Ministry continued to be unable to bring new cases involving members of the now-disbanded army Intelligence Battalion 3–16 whom various witnesses, survivors, and former HOAF personnel charged detained, tortured, and killed many of the 184 persons who disappeared during the 1980s (*see* Section 1.b.).

At year's end, the Public Ministry continued its appeal of a September 10 ruling by a court in Catacamas in favor of Jorge Adolfo Chavez Hernandez, a former member of Battalion 3–16, for the 1998 killing of environmental activist and Catacamas town councilman Carlos Antonio Luna Lopez. Jose Angel Rosa Rosa, arrested in 2002 with Chavez, remained in prison on unrelated environmental charges at year's end. Former security official Jose Marcos Hernandez Hernandez, also charged in the case, is deceased. Two other suspects remained at large. The case, brought by two NGOs in January 2003 to the IACHR, remained pending at year's end.

In March, a court ruled in favor of Jaime Ramirez Raudales, a former member of Battalion 3–16, arrested in August 2003 for the 1988 political killings of social activists Miguel Angel Pavon Salazar and Moises Landaverde Recarte. In July, the Public Ministry appealed the ruling to the San Pedro Sula appeals court, where it was pending at year's end.

At year's end, Trejo was under house arrest, the appeals court had yet to issue a new judgment on the Trejo case, and the Supreme Court had not yet ruled on the Hernandez case. The case against Hernandez for the 1982 illegal detention and killing of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz was ongoing at year's end.

At year's end, the case continued against Captain Billy Fernando Joya Amendola, former army Chief of Staff Oscar Ramon Hernandez Chavez, Raymundo Alexander Hernandez Santos, and Segundo Flores Murillo for the July 1982 killing of university student Hans Madisson. None of the accused were under arrest at year's end. At year's end, Jose Barrera Martinez, a witness in cases related to Billy Fernando Joya Amendola and Raymundo Alexander Hernandez Santos, was at large despite a pending arrest warrant.

Although bank robberies and car thefts have declined since 2001, violent crime continued to fuel the growth of private, often unlicensed guard services, and of volunteer groups that patrolled their neighborhoods or municipalities to deter crime. Vigilante justice led to the killing of known and suspected criminals, as well as of youth in gangs, street children, and youth not known to be involved in criminal activity (*see* Section 5). Neighborhood watch groups called Citizen Security Councils (CSCs) originally were authorized by a previous Minister of Public Security, and some of them have been accused of taking the law into their own hands. Human rights activists continued to state publicly their belief that some of the CSCs, as well as private security companies with ties to former military or police officials, were acting as vigilantes or death squads, especially targeting youth, with the tacit complicity of police. Since 2002, by law the Ministry of Public Security has required that all arms, including those of private security firms, have to be registered with the government. On March 13, security forces of the Agro Oriental company allegedly shot and killed Cesar Virgilio Pinot. An investigation into his death was pending at year's end.

Several alleged "killings for hire" occurred during the year, usually related to land disputes or criminal activities.

Three suspects were in jail and three remained at large in the 2001 killing of community leader and environmental activist Carlos Roberto Flores in Olancho.

The 2000 complaint filed by Casa Alianza with the IACHR regarding the illegal detention and killing by police of four youths in 1995 (known as the four cardinal points case) remained under investigation by the Commission at the end of the year. In 2002, Casa Alianza filed a complaint regarding a 1998 case for the torture and killing of two minors in Progreso in which police were suspected of involvement. Casa Alianza had a total of six cases before the Commission; agreements were reached in two of these cases, and four cases were pending at year's end.

As of October 31, the Ministry of Public Security reported that gang members killed at least 6 police officers during the year.

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

In cases where significant information is available, but no body has been identified, the Public Ministry's Human Rights office attempted to uncover evidence that could lead to clandestine graves. At year's end, an investigation continued into the involvement of former military officers Carlos Roberto Velasquez Ilovares and Mario Raul Hung Pacheco in the 1988 illegal detention of student activist Roger Samuel Gonzales Zelaya, whose body has not been found.

There were no exhumations during the year. The courts adjudicated some pending cases involving political disappearances from the 1980s as murders (*see* Section 1.a.).

As of August, according to the Ministry of Public Security, there had been 4 kidnappings for ransom during the year, compared to 9 in 2003 and 22 in 2002.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and other cruel treatment; however, there were isolated instances in which officials employed such practices. In addition, police beatings and other alleged abuses of detainees remained problems.

In the cases of those accused of the 1982 illegal detention and torture of six university students: At year's end, the Public Ministry's appeal to the Supreme Court of the May 2003 appeals court ruling that Raymundo Alexander Hernandez Santos must be released from prison was pending; as was the Public Ministry's appeal of the failure of a court to try Juan Blas Salazar Meza him for the attempted killing and detention of all six students, after it had convicted him of illegal detention and sentenced him to 4 years' imprisonment; the courts continued to deny repeated Public Ministry appeals to have the arrest warrant of retired Captain Billy Fernando Joya Amendola reinstated while his case continued, and he remained free on bail; on January 26, charges were dismissed against retired Colonel Juan Evangelista Lopez Grijalba, for whom, along with retired Colonel Julio Cesar Funez Alvarez, arrest warrants had been issued in March 2003 for illegal detention; the Public Ministry's appeal of this decision was pending at the Appeals Court at year's end; retired General Jose Amilcar Zelaya Rodriguez, the owner of the property in the Amarateca Valley of Francisco Morazan Department where the 1982 incidents oc-

curred, was under house arrest at year's end, under charges of complicity; and at year's end, the case continued against Roberto Arnaldo Erazo Paz and Manuel de Jesus Trejo Rosa.

On June 29, the Supreme Court issued an injunction against the dropping of the arrest warrant for and ordered the appeals court to issue a new judgment in the case of retired Major Manuel de Jesus Trejo Rosa, arrested with Raymundo Alexander Hernandez for the 1982 illegal detention and attempted killing of Nelson MacKay Echevarria and Miguel Francisco Carias Medina.

On June 28, a court sentenced former security officials, German Antonio McNeil Ulloa and Juan Blas Salazar Meza to 1 year 7 months in prison for the 1983 illegal detention and torture of student activist Luis Manuel Figueroa Guillen in Choluteca Department.

Prison conditions were harsh and prison security was poor. Prisoners suffered from severe overcrowding, malnutrition, and a lack of adequate sanitation, and allegedly were subjected to various other abuses, including rape by other prisoners. Prison escapes, through bribery or other means, remained a frequent occurrence. While there are no precise statistics, a significant percentage of prisoners are gang members.

Prison disturbances, caused primarily by harsh conditions and intergang violence, occurred throughout the year in the larger facilities of San Pedro Sula, Tegucigalpa, and Choluteca. A number of gang members were killed in prison, some by members of other gangs. Casa Alianza estimated that 98 children and young adults (age 23 and under) were killed in prisons and juvenile detention facilities between 2002 and the end of August. During the year, prison authorities attempted to hold prisoners of opposing gangs in different facilities to reduce intergang tensions and violence. Both the Code of Criminal Procedure and the Law of Rehabilitation of Criminals contain provisions that provide for the transfer of inmates from one prison to another by prison authorities.

On May 17, a fire at the San Pedro Sula prison killed 107 gang members. Some organizations charged that the Government was responsible for the deaths due to negligence, and investigations were pending at year's end.

On May 3, the Public Ministry filed criminal charges, ranging from abuse of authority to attempted and actual murder and attempted and actual aggravated murder, against 51 persons, including 19 Preventive Police, 9 Prison Police, 2 Army soldiers, 1 Air Force soldier, 19 prison "trustees" (non-gang member inmates who enforce discipline within the prison), and 1 regular prisoner, for alleged involvement in the deaths of 68 persons in April 2003, at El Porvenir prison near La Ceiba. On May 8, the judge in the case approved "watched freedom" (akin to a mild version of office or house arrest) for 39 persons, provisionally dismissed cases against 5 persons (2 Preventive Police, 2 soldiers, and the regular prisoner) with the Public Ministry's concurrence, and closed a case against 1 "trustee" who had been killed. The judge also issued arrest warrants for those persons who failed to present themselves in court to face the charges. Among the problems the Public Ministry encountered during this investigation were missing evidence, shell casings found at the crime scene that did not match the weapons later given to the Public Ministry by police, and allegations that prison records were altered. In addition, prison authorities did not follow proper legal procedures in transferring Mara 18 gang members to the La Ceiba prison. In December, Deputy Warden Oscar Sanchez, who was in charge at the time of the incident, was convicted of murder and attempted murder and faced a minimum sentence of 25 years in prison.

More often than not, for lack of alternative facilities, wardens held the mentally ill, although there was a National Mental Hospital with drug and alcohol rehabilitation, and those with tuberculosis and other infectious diseases, among the general prison population. Human rights organizations accused prison officials of using excessive force against prisoners, including beatings, as well as isolation and threats. In the past, the National Human Rights Commission and the Special Prosecutor for Human Rights accused prison officials of using electric shocks and immersion in water.

Male prisoners with money routinely bought private cells, decent food, and permission for conjugal visits, while prisoners without money often lacked basic necessities, as well as legal assistance. The prison system budgeted approximately $0.48 (9 lempiras) per day for food and medicine for each prisoner. Prisoners were allowed visits and in many cases relied on outside help to survive, since the prison system did not provide adequate food.

The NGO CODEH continued government-funded programs to train Prison Police and other personnel to avoid committing acts of torture, to train and rehabilitate prisoners, and to arrange for periodic inspections of prisons. The Center for the Pre-

vention, Treatment, and Rehabilitation of Victims of Torture and Their Families provided health and social services to prisoners in the main penitentiary in Tamara.

Women generally were held in separate facilities under conditions similar to those of male prisoners; however, female prisoners did not have conjugal visit privileges. Four percent of the prison population was female. Children up to age 2 can live with their mothers in prison.

The Government operated juvenile detention centers in Tamara (one for boys and one for girls), El Carmen (for boys) in San Pedro Sula, and Jalteva (for boys) near Tegucigalpa. According to the Government, as of August, there were 399 children at these four centers. Although there was a lack of juvenile detention facilities, minors were detained infrequently in adult prisons. In 2002, Casa Alianza reported that the Government responded quickly to complaints of minors in adult prisons and no longer routinely held juvenile offenders in adult prisons. In 2001, the Government and Casa Alianza agreed to earmark $182,000 (3 million lempiras) compensatory payments under an IACHR agreement to assist juvenile offenders. Only 23 of the approximately 300 (out of an initial list of approximately 800) juvenile offenders who served time in adult prisons from 1995 to 1999 were compensated. On October 19, the Government authorized the Solicitor General to come to an agreement with Casa Alianza on the resolution of the legal details related to government responsibility for these actions so that IHNFA can use the remaining money for juvenile detention centers.

At year's end, negotiations between the Government and Casa Alianza were ongoing related to the Casa Alianza complaint to the Inter-American Court of Human Rights regarding four minors tortured in a Comayagua prison in 1995.

Pretrial detainees generally were not separated from convicted prisoners. According to the Government, as of December, the 24 penal centers held over 10,931, the vast majority of them men, despite the fact that the capacity of these centers was for approximately 7,000. Of these 6,792 were pending trial and 4,139 had been convicted (*see* Section 1.d.). An additional approximately 11,000 persons were under house arrest.

The Government generally permitted prison visits by independent human rights observers and such visits occurred during the year.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the authorities occasionally failed to observe these prohibitions.

The Ministry of Public Security oversees police operations (Preventive Police, DGIC, Transit Police, Tourist Police, and Prison Police), and police are responsible for all public security issues. Police were underfunded, undertrained, and understaffed, and corruption was a serious problem. According to the Ministry of Public Security, from 2000 through August, 186 police had been prosecuted and 1,344 had been fired for reasons ranging from incompetence to corruption. There was widespread public concern at the inability of the security forces to prevent and control crime. During the year, police and military continued to patrol jointly the streets, however petty crime remained relatively high. The joint patrols were suspended temporarily and resumed before the end of the year. Gang violence and intimidation on the streets remained a serious problem, and gangs continued to intimidate, threaten, and rob passengers on public transportation, causing the government to station security officers on many public buses. While investigation into crimes improved during the year, the public continued to believe that corrupt security personnel were complicit in the high crime rate (*see* Section 1.a.). Despite continued attention to the problem by the Government, perpetrators of killings against youth and minors, including in some instances police, continued to act with impunity.

The Internal Affairs office investigates allegations of illegal activities against members of the police force, including the Preventive Police and the DGIC. The Internal Affairs office reports to the Attorney General's office, which decides whether to prosecute the offender or to return the case to the Minister of Public Security for administrative action. The Preventive Police and the DGIC each have an Office of Professional Responsibility (OPR), which conduct internal reviews of police misconduct such as off-duty criminal conduct and ethics violations. An OPR ruling is reported to the Minister of Public Security, who can take disciplinary action or direct a supervisor to decide upon disciplinary action for minor infractions.

The law states that police may arrest a person only with a court order, unless the arrest is by order of a prosecutor, made during the commission of a crime, or when there is strong suspicion that a person has committed a crime and may try to evade criminal prosecution, or is caught with evidence related to a crime. Police must clearly inform the person of the grounds for the arrest. The Preventive Police detain suspects and can investigate only misdemeanors, unless the DGIC is not available, in which case the law allows the Preventive Police to investigate mis-

demeanors and felonies. Police must bring a detainee before a competent authority within 24 hours; a prosecutor has 24 hours to decide if there is probable cause for an indictment. If a prosecutor decides to indict a suspect, the prosecutor presents an indictment before a judge, who then has 24 hours to decide whether to issue a temporary detention order that can last up to 6 days. Within this time period, a pretrial hearing must be held for the judge to examine probable cause and make a decision on whether or not pretrial detention should continue. Under the Criminal Procedures Code, bail is available for felonies and prisoners have access to family members.

Lengthy pretrial detention was a serious problem; in 2002, an estimated 88 percent of the prison population awaited trial. The law mandates the release from prison of any detainee whose case has not come to trial and whose time in detention exceeds the maximum prison sentence for the crime of which he is accused. However, the antiquated criminal justice system, judicial inefficiency and corruption, and lack of resources clogged the criminal system with pretrial detainees, many of whom already have served time in prison equivalent to the maximum allowable for the crime of which they were accused. The new Criminal Procedures Code limits pretrial detention to 1 year if the greatest penalty for a crime is less than 6 years and to 2 years if the penalty for the crime is 6 years or greater. The Code is not retroactive, so individuals who have already served their sentence but whose case has not been reviewed remain in jail until the judge reviews the case. Many prisoners under the old system remained in jail after being acquitted or completing their sentences, due to the failure of responsible officials to process their releases. The Criminal Procedures Code mandates house arrest until trial of persons over the age of 60 accused of nonfelony crimes, women who are pregnant or lactating, and the terminally ill. In addition, it provides for the use of house arrest in felony cases, depending on the seriousness of the crime as well as the suspect's criminal record and personal history.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary was poorly staffed and equipped, often ineffective, and subject to corruption. While the Government respected constitutional provisions in principle, implementation was weak and uneven in practice. Both the judiciary and the Public Ministry suffered from inadequate funding; low wages and lack of internal controls made judicial and law enforcement officials susceptible to bribery; and powerful special interests still exercised influence and often prevailed in the courts. Elected politicians previously enjoyed constitutional immunity as a privilege of their office.

Congress voted in October 2003, and again on July 27 to amend the Constitution to revoke immunity for executive, legislative, and judicial employees. On December 30, congressionally approved procedures for prosecuting previously immune individuals were published. The Government had argued that new congressional implementing legislation was necessary before cases could be brought against senior officials. On February 19, a court sentenced Congressman Armando Avila Panchame to 20 years' imprisonment for drug trafficking. His conviction marked the first time that a court had convicted a sitting congressman for drug trafficking. In July 2003, authorities arrested Congressman Mauro Caballero and charged him with environmental crimes on public lands; however, he claimed that he owned the lands in question and his immunity was not revoked. Congressman Melvin Tomas Regalado was arrested and charged with improperly influencing decisions leading to the release and flight of the prisoner Amilcar Antonio Portillo in March 2003 and subsequently requested that his immunity be waived. However, his immunity had not been revoked by year's end. On November 25, alternate congressman Abelardo Diaz Escoto was ordered to sweep public streets for failing to comply with a judge's order in a domestic abuse case brought by the mother of his two children. Congressman David Romero Ehler remained in jail awaiting trial for raping his stepdaughter at year's end (*see* Section 3).

During the past 10 years, the Public Ministry has taken steps to investigate and charge not only military officers for human rights violations, but also recently retired heads of the armed forces for corruption, illicit enrichment, and white-collar crimes, as well as ranking officials of the 3 previous governments for abuses of power, fraud, and diversion of public funds and resources. However, at year's end, very few of those accused had been tried or convicted (*see* Section 3).

There are 12 appeals courts, 77 courts of first instance with general jurisdiction, and 330 justice of the peace courts with limited jurisdiction. The Supreme Court names all lower court judges. Human rights groups expressed concern that the 8–7 split between the Nationalist and Liberal Parties on the court was not likely to

depoliticize Supreme Court rulings. Numerous judges were accused of corruption or impropriety during the year.

In 2003, Congress passed a decree stating that the Supreme Court ruling concerning proposed amendments to the Constitution that would have given Congress unfettered power to interpret the constitutionality of laws that it passes were unconstitutional could not be published; however, the May 2003 Supreme Court ruling still stood at year's end. The Constitution provides for the right to a fair trial. This right continued to improve in practice since implementation of the Criminal Procedures Code. Since the implementation of the new Code, there has been some improvement in the legal system's fairness toward those charged with crimes, and cases have been processed with greater efficiency than under the old system. On November 27, the Government published a provisional strategy for the protection of witnesses and victims in criminal cases.

An accused person is presumed innocent and has the right to an initial hearing by a judge, to bail, to an attorney provided by the State if necessary, and to appeal. The rights of defendants often were not observed under the 1984 Code, under which all stages of the trial process were conducted in writing and, at the judge's discretion, could be declared secret and, thus, even less public than normal.

A public defender program provides assistance to those unable to afford an adequate defense. There are over 232 public defenders that provided free legal services to 45 percent of the prison population in the main national penitentiary in Tamara during the year; however, it is difficult for public defenders to meet the heavy demands of an unautomated, inadequately funded, and labor-intensive criminal justice system. Under the Code, cases cannot proceed if a suspect does not have legal representation. There were 50,551 persons represented by public defenders during 2003, and 39,505 persons represented by public defenders during the year. The demands placed on the public defender system severely overtaxed its resources.

The new Criminal Procedures Code provides defendants with additional rights that reduce their likelihood of being detained, including strict timelines for actions during the criminal process. The new Code reduced the number of pretrial detainees and established procedures so that detainees will not be held in prison beyond their maximum prison term.

In 2002, the courts were reorganized to divide case management into two systems, one following the old, written administrative court procedures, and the other following the new, oral accusatorial method of the Criminal Procedures Code. By the end of the year, 73 percent of 140,000 pending cases under the previous procedure had been dismissed or resolved. By law, backlogged cases must be resolved by 2006.

The judicial system was staffed by poorly qualified judges; corruption, patronage, and politicization remained problems. The Supreme Court dismissed more than 19 judges on various charges, including corruption, in 2002, the last year for which data was available.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, Correspondence.—The Constitution prohibits such actions; however, there is an exception that allows entry at any time in the event of an emergency or to prevent the commission of a crime. There continued to be credible charges that police personnel failed at times to obtain the needed authorization before entering a private home. Coordination among police, the courts, and the Public Ministry remained weak; however, it improved somewhat with the creation in 2003 of unified centers for police, prosecutors, and public defenders that provide for more efficient operations.

In a number of instances, private and public security forces actively dislodged farmers and indigenous groups who claimed ownership of lands based on land reform laws or ancestral titles to property (*see* Section 5). Despite reforms to the civil service system, party membership often was necessary to obtain or retain government employment.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice, with some important exceptions. The Police and Social Order Law restricts demonstrators from using statements that could incite persons to riot.

Some journalists admitted to self-censorship when their reporting threatened the political or economic interests of media owners.

A small number of powerful business magnates with intersecting business interests, political loyalties, and family ties owned many news media. Systemic national problems, such as corruption and endemic conflicts of interest, also limited the development of the news media. The Government has various means to influence news reporting of its activities, such as the granting or denial of access to government

officials. In May, all three branches of the Government and several private organizations continued the practice of granting awards, some accompanied by substantial sums of cash, to individual reporters on "Journalists' Day." Observers viewed them as little more than acknowledgments by the granting institutions of perceived services rendered. The Government also had considerable influence on the print media through its ability to grant or withhold official advertisements funded with public monies.

The news media continued to suffer from internal corruption, politicization, and outside influences. Press silence could be bought by many means, including the practice of ministers and other high-ranking government officials hiring journalists as public affairs assistants at high salaries. Payments to journalists to investigate or suppress certain stories continued, although no individual journalist was accused publicly of engaging in the practice. News directors and editors acknowledged their inability to halt the practice.

Responsible journalists on many occasions conducted investigative journalism and presented corruption stories to the public's attention. However, in some cases when the news media attempted to report in depth on national politicians or official corruption, they continued to face obstacles, such as external pressures to desist from their investigations and a lack of access to government information and independent sources.

On February 4, a court convicted journalist Renato Alvarez of defamation and slander against former Congressman Julio Eduardo Sarmiento for reading a document in 2003 on his TV talk show, "Frente a Frente," that listed prominent figures allegedly linked to narcotics trafficking. On February 18, the court sentenced Alvarez to 2 years and 8 months in prison but suspended the sentence and gave him 5 years' probation. In addition, the court ordered Alvarez to pay legal costs and stripped him of some civil and political rights, including the right to vote and the right to run for public office. On March 17, Alvarez's lawyer filed an appeal for annulment before the Supreme Court.

The Maduro Government continued to regularly use the Cadena Nacional, a complete preemption of all television and radio broadcasting, to present presidential addresses. In addition, the President of the National Congress Porfirio Lobo, who is also a presidential candidate, often used the Cadena Nacional.

Because President Maduro had limited ties to the media, some journalists took the opportunity to increase reporting on sensitive topics. In the past, there were credible reports of media owners' repression against individual journalists who criticized the Government, actively criticized freedom of the press, or otherwise reported on issues sensitive to powerful interests in the country. During the year, there were several reports of threats or lawsuits against journalists by powerful persons, including legal cases against journalists for their reports on corruption cases.

On March 12, an unknown assailant shot and injured journalist Edgardo Castro in San Pedro Sula. An investigation was pending at year's end.

In November, Jhonny Lagos, the director of a new small independent monthly newspaper, El Libertador, and his family received anonymous telephone threats.

At year's end, an investigation continued in the November 2003 killing of journalist German Antonio Rivas in Santa Rosa de Copan, Copan Department.

The Government did not restrict Internet access.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. However, police used force to disperse several protests, resulting in a number of injuries. In 2003, the Congress approved a bill that bans membership in street gangs and prescribes prison terms of 3 to 12 years (*see* ction 4).

During the year, incidents in which protesters, including farmers or teachers, took over roadways in various departments met with police resistance. Police used tear gas and riot troops to clear roadways, injuring a number of persons in some of the incidents.

In December, students protested government threats to close the National University. On December 13, the police used tear-gas to disperse a group of student demonstrators.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The dominant religion, Catholicism, does not affect adversely the religious freedom of others. The Government prohibits immigration of foreign missionaries who practice religions that claim to use witchcraft or satanic rituals.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

Neither the Constitution nor the Penal Code explicitly prohibits exile, but the Government did not us it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government accepted five persons for refugee status in 2003 and one person through October. In addition, the Government allowed 63 persons in 2003 and 13 through October to stay for humanitarian reasons, although they were not granted refugee status. The Government cooperated with the U.N. High Commissioner for Refugees, the International Office of Migration, and other humanitarian organizations in assisting refugees and asylum seekers.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens choose a president, vice president, and members of the National Congress by free, secret, and direct balloting every 4 years. General elections were held in 2001, and in January 2002, Ricardo Maduro Joest was sworn in as President for a 4-year term.

A new political party may gain legal status by obtaining 20,000 signatures and establishing party organizations in at least half of the country's 18 departments.

Any citizen born in the country or abroad of Honduran parentage may hold office, except for members of the clergy, the armed forces, and the police. The clergy and members of the military or civilian security forces are not permitted to vote.

Under a new electoral law passed in January that came into effect in April, voters will be able to select candidates based not only on their names but also on their photographs. Voters may participate in open primaries for three political parties on February 20, 2005, and general elections in November 2005. The new law limits campaigns to 4 months and a political candidate can run for one political position only. An office of vice president was created and the current system of three presidential designates was eliminated. The law also mandates limited campaign finance reporting requirements. The new electoral law states that voters abroad only will be able to vote for president and vice president in the general election.

The executive and legislative branches were subject to corruption and political influence. There was a widespread perception that government anti-corruption institutions were unwilling or lacked the professional capacity to investigate, arrest, and prosecute those involved in high-level corruption cases, especially cases involving the executive or legislative branches (*see* Section 1.e). The National Anti-Corruption Council has not been able to make much headway against corruption.

No laws permitted citizens to access information regarding government operations or decisions.

There are no legal impediments to the participation of women or minorities in government and politics; however, opportunities for women to participate in politics remained quite limited, particularly for those seeking elected office. The 2000 Law of Gender Equality mandates that 30 percent of all candidates nominated for public office by recognized political parties be women. The new Electoral Law mandates a quota of no less than 30 percent participation by women officeholders. Congresswomen and women's groups strongly criticized all five parties for their lack of female representation in the congressional slates after the 2001 elections. There were 10 women in the 128-seat legislature, as well as 12 female alternates. There were 9 female justices, 1 of whom was president, on the 17-member Supreme Court; and 1 of the 16 cabinet ministers were women. As of October, 25 of the 298 mayors were women. Despite limited attempts at reform, politics remained a male-dominated hierarchy.

There were few minorities or indigenous people in leadership positions in government or politics. There were no indigenous people or Garifuna (Afro-Caribbean) in the 128-seat legislature, although there was 1 indigenous and 2 Garifuna alternate congressmen.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with these groups and were responsive to their views.

In 2003 and during the year, several human rights organizations censured the Government for criticizing their challenges to the constitutionality of the anti-gang law. The human rights organizations alleged that the government's complaint created a perception that they were supporting members of gangs, which resulted in their receiving threats.

On April 26, unknown assailants shot and killed human rights and land activist Marvis Guelio Perez in Cofradia. An investigation into his killing was pending at year's end (*see* Section 1.a).

On May 27, unknown assailants assaulted Jose Idalecio Murillo, a leader of the Regional Coordination of Popular Resistance (CRRP). An investigation was pending at year's end.

In June, Andres Pavon Murillo, Executive Director of the NGO CODEH, sought and received police protection after being threatened for his human rights work.

On November 4, Juan Almendares Bonilla, Executive Director of the NGO Center for the Prevention, Treatment and Rehabilitation of Torture Victims and Their Relatives (CPTRT) and candidate for the presidential nomination in the Democratic Unification Party primary, said that he had received death threats. On October 26, unknown assailants ransacked the CPTRT office in Tegucigalpa. It was the third assault on the CPTRT office since January 2003.

At year's end, an investigation continued into the 2002 killing of human rights worker Jose Santos Callejas in Atlantida (*see* Section 1.a.).

In 2002, Congress chose Ramon Custodio Lopez to serve a 6-year term as Human Rights Commissioner of the National Human Rights Commission (NHRC), an autonomous government institution. The NHRC director has free access to all civilian and military institutions and detention centers and functions with complete immunity and autonomy. The Government generally cooperated with the NHRC and invited the Human Rights Ombudsman to work on interagency commissions dealing with rule of law issues. On September 13 the Government established the Interinstitutional Commission for Human Rights, constituting representatives of relevant government ministries, and inviting the Public Ministry and Supreme Court to participate. Custodio objected to the creation of the new commission as a potentially competing organization.

The Congress has a Human Rights Committee; however, it did not play a significant role in the formulation of policy.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution bans discrimination based on race, sex, or class; however, in practice, the political, military, and social elites generally enjoyed impunity under the legal system.

Women.—Violence against women remained widespread. The Penal Code classifies domestic violence and sexual harassment as crimes, with penalties of 2 to 4 years' and 1 to 3 years' imprisonment, respectively; however, the Government struggled to enforce the law effectively during the year. From January-December, the Public Ministry received 3,184 reports of alleged domestic violence in the Tegucigalpa office alone. Of these reports, 790 became legal cases, with 592 convictions and 26 dismissals. There were 171 reports of alleged "intra-family violence," a more serious crime under the law, with 194 cases being prosecuted, and 12 reports of rape during the year, with 13 cases being prosecuted.

The Law Against Domestic Violence, intended to strengthen the rights of women and increase the penalties for crimes of domestic violence, does not impose any fines, and the only sanctions are community service and 24-hour preventive detention if the aggressor is caught in the act. The Penal Code includes the crime of intrafamily violence and disobeying authorities, in the case that an aggressor does not obey a restraining order. Three years' imprisonment per incident is the maximum sentence. Since the Government began in 2002 to fund special courts to hear only cases of domestic violence, more cases have been resolved.

The Government worked with women's groups to provide specialized training to police officials on enforcing the Law Against Domestic Violence. There were few shelters specifically for battered women, with only two offering physical shelter. An NGO operated 1 shelter in Tegucigalpa that could accommodate 20 women and their

families. Six private centers for battered women offered legal, medical, and psychological assistance but not physical shelter.

The penalties for rape range from 3 to 9 years' imprisonment, and the courts enforced these penalties in practice. All rapes are considered public crimes, so a rapist can be prosecuted even if the victim does not want to press charges.

The law does not prohibit adult prostitution, but child prostitution is illegal; the law prohibits promoting or facilitating the prostitution of adults.

Women were trafficked for sexual exploitation and debt bondage (*see* Section 5, Trafficking).

The law prohibits sexual harassment in the workplace; however, it continued to be a problem.

Women were represented in at least small numbers in most professions, but cultural attitudes limited their career opportunities. Under the law, women have equal access to educational opportunities and slightly more girls complete grade school and high school than boys, according to the National Statistics Institute. The law requires employers to pay women equal wages for equivalent work, but employers often classified women's jobs as less demanding than those of men to justify paying them lower salaries. Women often work in the low-status, low-pay, informal occupations, such as domestic work. The majority of the female labor force is in the informal sector where jobs are poorly remunerated and where there are no regulations or protections.

Despite legal protections against such practices, workers in the textile export industries reported that they were required to take preemployment pregnancy tests. Pregnant employees and new mothers for 3 months after the birth of their child have specific protections under labor law to prevent unjust firings (*see* Section 6.e.). Women are eligible for 4 weeks of paid maternity leave prior to the birth and 6 weeks of paid maternity leave after the birth.

Women are treated equally under the law with respect to property rights in divorce cases.

The Government maintained a cabinet-level position directing the National Women's Institute, which develops women and gender policy. The Inter-Institutional Technical Committee on Gender supported gender units in five government ministries, and there was a special working women's division in the Ministry of Labor to coordinate government assistance programs that have a gender focus and that are targeted for women. There are many NGOs active on a wide range of women's issues, including the Center for the Study of Women-Honduras which has been active on trafficking in persons, commercial sexual exploitation, domestic workers, and other key issues.

Children.—The Government was committed to children's rights and welfare.

The Government provided free, universal, and compulsory education through the age of 13; however, in May, the National Statistics Institute's household survey estimated that as many as 125,000 children aged 7 through 12 failed to receive schooling of any kind; of these, almost 10,000 may never attend primary school. Older boys often drop out to assist their family by working. The May household survey also reported that women have an average of 5.6 years of primary education and men have an average of 5.3 years of primary education. The educational system faced fundamental problems: High dropout rates, low enrollment at the secondary level, unbalanced distribution of government spending, teacher absenteeism, and low quality of education in the classroom. By the year's end the Government had not taken measures to address these problems.

The Government allocated 14.2 percent of its total expenditures (including foreign assistance) to the health sector (including salaries of doctors and medical workers) during the year. According to the most recent data available, a 2001 national survey on epidemiology and family health, infant mortality (deaths under 1 year of age) was 34 per 1,000 live births, and child mortality (deaths under 5 years of age) was 45 per 1,000 live births. Of children ages 1 to 5, 32.9 percent were malnourished.

The 1996 Code of Childhood and Adolescence established prison sentences of up to 3 years for persons convicted of child abuse. From January to August, the Public Ministry received 390 reports of alleged crimes against children, including child abuse, in the Tegucigalpa and San Pedro Sula offices. In 2003, the Public Ministry reported that 205 cases of child abuse were tried during the year.

Trafficking in children for commercial sexual exploitation s and child prostitution were problems (*see* Section 5, Trafficking).

Child labor was a problem (*see* Section 6.d.).

The Government was unable to improve the living conditions or reduce the numbers of street children and youth (*see* Sections 1.a. and 1.c.). The Government and children's rights organizations estimated the number of street children at 20,000,

only half of whom have shelter on any given day. Many street children were sexually molested or exploited, and some were addicted to drugs, alcohol, and glue sniffing. The Tegucigalpa city administration operated 12 temporary shelters with a total capacity of 240 children. Casa Alianza operated 3 shelters for 160 children, 1 for victims of commercial sexual exploitation, 1 for street children, and 1 for children with drug and alcohol problems.

Despite continued attention to the problem by the Government, abuse of youth and children in poor neighborhoods and in gangs was a serious problem. Both police and members of the general population engaged in violence against poor youth and children; some of these children were involved in criminal activities. Estimates of the extent of the problem varied. According to the Casa Alianza, press reports indicated that 2,520 children and young adults (age 23 and under) were killed between 1998 and the end of the year. In 2003, the Minister of Government reported that 800 children were killed from 1988 to the end of 2003.

Human rights groups alleged that individual members of the security forces worked with civilian (including vigilante) groups and used unwarranted lethal force against supposed habitual criminals or suspected gang members, as well as against other youths not known to be involved in criminal activity. Casa Alianza provided information of suspected police involvement in 15 cases in 2002, 13 cases in 2003, and 2 additional cases during the year. In March, Juan Almendares, Executive Director of the NGO CPTRT, estimated that government agents were responsible for 13 to 22 percent of the killings. Several groups and families of the victims pushed for investigations into specific incidents, while others claimed to have provided public prosecutors with evidence of collusion between police elements and business leaders. The Ministry of Public Security, the focus of human rights criticism, publicly denied accusations of the whole police force's involvement in the killings, although it acknowledged that individual police had been investigated for participation in them. CODEH also conducted human rights training with the military during the year.

There was some improvement in the government's ability to investigate and prosecute suspects in the killings of children and youth during the year. From July 2003 through December, the Special Investigative Unit on child killings had received 660 cases, 112 of which were forwarded to the Public Ministry for prosecution with the remaining 548 under investigation. Of the 112 cases forwarded to the Public Ministry, gang members were thought to be responsible in 54 percent of the cases, individuals in 30 percent, and police or other government officials in 16 percent. The Public Ministry prosecuted and convicted 12 defendants in seven cases involving nine victims, four of them minors.

In December, the IACHR Special Rapporteur for Children Paulo Sergio Pinheiro and Special Rapporteur for Prisoners Florentin Melendez visited the country to review the situation of gangs, including extrajudicial, arbitrary, and summary killings of youths and children, and prison deaths of gang members. The IACHR Special Rapporteur for Children had previously visited the country in September 2002 to review the situation. In September 2002, the U.N. Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions released a report based on her 2001 visit that claimed that security forces were involved in covering up their involvement in some of the summary killings of youth and children, and that some of the killings involved police.

A 2003 law outlawing gang membership prescribes prison terms ranging from 3 to 12 years, depending on the individual's level of involvement and seniority. In 2003, human rights organizations criticized the law and filed a brief before the Supreme Court arguing that the law is unconstitutional, but the Court dismissed the brief (*see* Section 4). As of August, 1,683 persons had been detained for illicit association under the law. Human rights organizations continued to criticize the law and its implementation. There are an estimated 30–40,000 persons, many of them minors, who belong to gangs in the country. Membership is primarily confined to the large urban centers of Tegucigalpa and San Pedro Sula. The Mara Salvatrucha (MS 13) and the Mara 18 are the largest and most violent of the gangs. Together these two gangs account for roughly 40 percent of gang membership countrywide and a large amount of the violent crime.

Trafficking in Persons.—The Legal Code includes provisions that prohibit trafficking in persons; however, there is no comprehensive anti-trafficking law. There were reports that persons were trafficked to, from, and within the country.

Assorted penal, child exploitation, and immigration statutes criminalize trafficking and enable the Government to prosecute traffickers. The law prohibits trafficking in persons and provides for sentences of between 6 and 9 years' imprisonment; the penalty is increased if the traffickers are government or public employees,

or if the victim suffers "loss of liberty" or is killed. The Government and Justice Ministry, through its General Directorate for Population and Migration (DGPM), is responsible for enforcing the country's immigration laws although the DGPM does not have arrest powers. Many of the government's anti-trafficking measures were conducted in the context of combating the illegal movement of migrants. Corruption, a lack of resources, and weak police, Public Ministry, and court systems hindered law enforcement efforts. Corruption was a serious problem that made obtaining court convictions difficult. Some officials were investigated and dismissed for corruption.

In October, a court convicted and sentenced a foreign citizen to 47 years' imprisonment for commercial sexual exploitation of five girls in Danli.

On October 21, a court convicted Roger Galindo, Marlene de Jesus Aguilar Galindo, and Sabina Cepeda of alien smuggling and trafficking in persons for running a prostitution ring uncovered in an April 2002 raid in Texas. Sentencing was pending at year's end. Maria Isabel Cruz Zamora was still a fugitive with a pending arrest warrant.

In October 2003, police arrested six persons in Tocoa for trafficking in persons and money laundering, and charged two persons with aggravated trafficking for sexual exploitation of their victims. The men were in jail, and the women under house arrest at year's end. Prosecution of these cases was ongoing at year's end.

Canadian authorities cooperated with the Government during the year to identify and repatriate the minors. The Government continued to work with the Government of Mexico to repatriate over 200 minors working as prostitutes in southern Mexico. According to a local children's rights group, 408 children had been reported missing from 1990 to February 2003. The Special Prosecutor for Children participated in a regional meeting in Costa Rica of Prosecutors for Children's Issues to discuss regional cooperation against trafficking and commercial sexual exploitation. The Special Prosecutor for Children worked with her counterpart in Guatemala on locating and repatriating children in Guatemala that were trafficking victims.

The country was a source and transit point for trafficking for sexual and labor exploitation. Most victims were young women and girls, who are trafficked to Guatemala, Belize, El Salvador, Mexico, the United States, and Canada. Reports from Casa Alianza in 2000 asserted that approximately 250 children in Canada were coerced into prostitution or the sale of illicit narcotics.

Women and children were trafficked internally, most often from rural to urban settings. The commercial sexual exploitation of children was a serious problem, and child prostitution was a problem in tourist and border areas of the country. Casa Alianza estimated in December 2003 that there were approximately 8,335 children who were victims of some form of commercial sexual exploitation. The Special Prosecutor for Children conducted operations jointly with the police, the Honduran Institute for Children and the Family (IHNFA), judges, and Casa Alianza, to rescue victims and arrest and prosecute those responsible for these victims' exploitation.

The Government, in conjunction with UNICEF, conducted a public information campaign against trafficking and commercial sexual exploitation, and raised awareness of children and women's rights and risks associated with illegal migration. The Government and NGOs held seminars on the prevention and eradication of the commercial sexual exploitation of children and trafficking in women and children in Tegucigalpa, La Ceiba, and Valle in 2003, and in San Pedro Sula, Santa Rosa de Copan, Puerto Cortes, and Tela during the year. Casa Alianza also conducted a public information campaign against commercial sexual exploitation of children. A national commission to combated child labor abuses and reincorporated working minors into educational programs. Several government agencies, international organizations, and NGOs have developed a national plan against the sexual exploitation of children.

The Government did not provide any assistance to foreign victims of trafficking, nor does it provide funding for NGOs helping victims. In July, Immigration authorities inaugurated a shelter for third country illegal immigrants pending deportation to their home countries. The shelter was built by the International Organization for Migration using assistance from an international donor. The Government worked with the ILO's International Program to Eradicate Child Labor (IPEC) and NGOs to provide training to the press on trafficking in persons. Two centers in Tegucigalpa and San Pedro Sula assisted citizens deported from other countries to relocate in the country. The centers' activities continued during the year, with the assistance of several international organizations. Consular officials are aware of trafficking issues when abroad. On April 22, Casa Alianza signed an agreement with the Ministry of Government and Justice and the Directorate of Immigration to protect children who are victims of trafficking/commercial sexual exploitation out-

side the country. As part of the agreement, the Government committed to inform Casa Alianza about any repatriation of minors.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, there is no specific statutory or constitutional protection for them. It is illegal for an employer to discriminate against a worker based on disability. There is no legislation that requires access by persons with disabilities to government buildings or commercial establishments.

Indigenous People.—Some 490,000 persons, constituting 9 percent of the general population, were members of indigenous and Afro-Caribbean ethnic groups. The Miskitos, Tawahkas, Pech, Tolupans, Lencas, Chortis, Nahual, Islanders, and Garifunas lived in 362 communities and generally had little or no political power to make decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Most indigenous land rights are communal, providing land use rights to individual members of the ethnic group. Indigenous and ancestral lands often are defined poorly in documents dating back to the mid-19th century. Indigenous and nonindigenous communities criticized the government's exploitation of timber; however, government policy over natural resources changed in 2002 and reportedly included greater local participation.

Land disputes were common among all sectors of society; however, the lack of clear title and property boundaries of indigenous land claims often lead to conflicts between such groups as landless mestizo farmers who clear and occupy land for subsistence farming, local and national elites who encroach on indigenous land to engage in illegal logging, and various government entities (*see* Sections 1.a. and 1.f.). In 2002, 12 Tolupan were killed in Yoro department in separate incidents because they opposed illegal logging and usurpation of their ancestral lands. Tolupan leaders implicated sawmill owners, police, district attorneys, and the governmental Honduran Forest Development Corporation in these killings. These cases were still pending at year's end. The Government worked with various indigenous groups on management plans for public and ancestral lands that they occupy. Security officials and private landowners were accused of participating in approximately a dozen killings of Lencas and Garifunas in conflicts over indigenous land claims.

The courts commonly deny legal recourse to indigenous groups and often show bias in favor of nonindigenous parties of means and influence. Failure to obtain legal redress frequently lead indigenous groups to attempt to regain land through invasions of private property, which usually provoked the authorities into retaliating forcefully. The Government was somewhat responsive to indigenous land claims; however, numerous cases remained unresolved because of conflicting claims by influential individuals.

In 2002, the INA reduced its issuance of titles to indigenous groups because of lack of funds to compensate private owners and expected changes in land use laws. The INA continued to play a weak role in mediating land claims of indigenous and farmer groups.

Human rights organizations, including Amnesty International (AI), complained about alleged poor treatment, police beatings, and denial of adequate medical care for indigenous brothers Marcelino Miranda Mendoza and Leonardo Miranda Mendoza, members of the Civic Council of Indigenous and Popular Organizations of Honduras (COPINH). Jailed in January 2003, the brothers were later convicted and in December 2003 sentenced to 29 years in jail in Gracias, Lempira for the 2001, murder of Juan Reyes Gomez and the attempted murder of Demetrio Reyes. On November 11, the Supreme Court overturned the 25-year sentence for Gomez's murder, and ordered the appeals court to reconsider the case.

Other Societal Abuses and Discrimination.—In September, AI alleged that thousands of homosexual and transgender persons in the country faced discrimination and attacks on a daily basis.

On August 27, the Government granted legal recognition to three NGOs working on homosexual issues: the Violet Collective, the San Pedro Gay Community, and Kukulcan.

In September 2003, AI reported that approximately 200 homosexual and transsexual workers were killed between 1991–2003. In July 2003, two policemen allegedly shot and killed Eric David Yanez, a transgender member of the NGO San Pedro Sula's Gay Community. The investigation into the killing was pending at year's end.

HIV positive persons were at risk of discrimination. In 2002, UNAIDS estimated the overall HIV prevalence rate at 1.9 percent, although available data on HIV/AIDS incidence was underreported. The male to female ratio of HIV infection was 1.2:1. UNAIDS estimated there were at least 63,000 adults living with HIV and al-

most 14,000 orphans in the country due to HIV/AIDS related deaths. An estimated 30 to 50 percent of total AIDS cases are still not reported. According to the Ministry of Health in July, 21,196 HIV positive cases had been reported, with 16,346 AIDS cases (9,580 men and 6,765 women).

Section 6. Worker Rights

a. The Right of Association.—Workers exercised the legal right to form and join labor unions. Approximately 7.3 percent of the work force is unionized. The International Labor Organization (ILO) has noted that various provisions in the labor law restrict freedom of association, including the prohibition of more than 1 trade union in a single enterprise, the requirement of more than 30 workers to constitute a trade union, the requirement that trade union organizations must include more than 90 percent Honduran membership, the prohibition on foreign nationals holding union offices, the requirement that union officials must be employed in the economic activity of the business the union represents, and the restriction on unions in agricultural businesses with less than 10 employees.

A number of private firms have instituted "solidarity" associations to provide credit and other services to workers and managers who are members of the associations. Representatives of most organized labor groups criticized these associations, asserting that they do not permit strikes, have inadequate grievance procedures, are meant to displace genuine, independent trade unions, and are employer-dominated.

While the Labor Code prohibits retribution by employers for trade union activity, it was a common occurrence. Some employers threatened to close unionized companies and harassed workers seeking to unionize, in some cases dismissing them outright. Despite legal protections, workers were most vulnerable for being fired while forming unions. Some foreign companies closed operations when notified that workers seek union representation.

The Ministry of Labor can reach administrative decisions on allegations of unfair dismissal and fine companies, but only a court can order reinstatement of workers. The labor courts routinely considered hundreds of appeals from workers seeking reinstatement and back wages from companies that fired them for engaging in union organizing activities. Workers often accepted dismissal with severance pay rather than wait for a court resolution due to the length of this process. Lack of effective reinstatement of workers was a serious problem. Once a union is recognized, employers dismiss relatively few workers for union activity.

The Labor Code prohibits blacklisting; however, there was credible evidence that blacklisting occurred in maquilas. A number of maquiladora workers who were fired for union activity have reported being hired for 1 or 2 weeks and then being let go with no explanation. Maquiladora employees reported seeing computer records that included previous union membership in personnel records. Some employers informed previously unionized workers that they were unemployable because of their previous union activity.

When a union is formed, its organizers must submit a list of founding members to the Ministry of Labor as part of the process of obtaining official recognition. However, before official recognition is granted, the Ministry of Labor must inform the company of the impending union organization. At times, companies receive the list illegally from workers or from Labor Ministry inspectors willing to take a bribe. The Ministry of Labor did not always provide effective protection to labor organizers. In 2002, the Ministry of Labor improved its administrative procedures to reduce unethical behavior of its officials regarding union organizing. There were fewer reports of inspectors selling the names of employees involved in forming a union to the management of the company compared with previous years. Once a union is registered, its board of directors has specific protections under the law to prevent illegal firings.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and to bargain collectively, and the Government protected this right in practice. By law, an employer must begin collective bargaining once workers establish a union; however, employers often refuse to bargain with a union.

The Constitution provides for the right to strike, and workers exercised this right in practice. The law prohibits strikes in essential services and petroleum production, refining, transport, and distribution. The ILO criticized the Civil Service Code's denial of the right to strike to all government workers, other than employees of state-owned enterprises. Nonetheless, civil servants often engage in illegal work stoppages without experiencing reprisals. The ILO also criticized the broad restriction on strikes in petroleum-related industries. The ILO noted that labor federations and confederations are prohibited from calling strikes, and that a two-thirds majority of the votes of the total membership of the trade union organization is required to call

a strike, rather than a simple majority; the ILO asserted that these requirements restrict freedom of association.

The same labor regulations apply in the export processing zones (EPZs) as in the rest of private industry, except that the law prohibits strikes. There were approximately 20 EPZs. Each EPZ provides space for between 4 and 10 companies. At year's end, approximately 60 of the country's 226 maquiladora firms were unionized. Approximately 13 percent of the 131,000 maquiladora work force is unionized, according to October statistics from the Ministry of Labor.

In the absence of unions and collective bargaining, the management of several plants in free trade zones instituted solidarity associations that, to some extent, function as "company unions" for the purposes of setting wages and negotiating working conditions. Others used the minimum wage to set starting salaries and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria (*see* Section 6.e.).

Labor leaders accused the Government of allowing private companies to act contrary to the Labor Code. They criticized the Ministry of Labor for not enforcing the Labor Code, for taking too long to make decisions, and for being timid and indifferent to workers' needs. Industry leaders, in turn, contended that the obsolete and cumbersome Labor Code discouraged foreign investment and required significant amendment. The Ministry of Labor sought to address these deficiencies by obtaining increased funding in the government's budget in 2002 and 2003, by dismissing or transferring Ministry of Labor employees whose performance was unsatisfactory, by strengthening regional offices to facilitate worker access to Ministry of Labor services, and by continuing a painstaking, ongoing review of the Labor Code since 1995. During the year, the Ministry of Labor continued its work to strengthen a special maquiladora inspectorate office and an office for female workers.

There were 105 general labor inspectors; however, the Government acknowledged that it did not adhere completely to international labor standards. In conjunction with other Central American nations, the country in 1997 agreed to fund a regional program to modernize the inspection and labor management functions of all regional labor ministries. In August 2003, the Ministry of Labor issued a legal notice that clarified the obligation of employers to grant access to labor inspectors.

c. Prohibition of Forced or Compulsory Labor.—The Constitution and the law prohibit forced or compulsory labor, including by children; however, there were credible allegations of compulsory overtime at maquiladora plants, particularly for women, who made up an estimated 65 percent of the workforce in the maquiladora sector according to October statistics from the Ministry of Labor. Prison labor can be compulsory for convicted criminals.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Constitution and the Labor Code prohibit the employment of minors under the age of 16, although children who are at least 14 years of age may work with parental and Ministry of Labor permission; however, child labor was a significant problem. The Children's Code prohibits a child under 14 years of age from working, even with parental permission, and establishes prison sentences of 3 to 5 years for persons who allow children to work illegally. This law was not enforced effectively. An employer who legally hires a 14- to 15-year-old must certify that the child has finished, or is finishing, compulsory schooling. The Ministry of Labor grants a limited number of work permits to 14- to 15-year-old children each year. Minors are prohibited from working in undersea fishing or outside of the country's borders. Minors 14 to 15 years old are allowed to work only 4 hours daily and 20 hours weekly; 16- to 17-year-olds can work 6 hours daily and 30 hours weekly. The Labor Code prohibits night work and overtime for minors under age 16, and also requires that employers in areas with more than 20 school-aged children on their farm, ranch, or business must provide a location for a school.

The Ministry of Labor did not enforce effectively child labor laws outside the maquiladora sector. Violations of the Labor Code occurred frequently in rural areas and in small companies. Significant child labor problems existed in family farming, agricultural export (including the melon, coffee, and sugarcane industries), and small-scale services and commerce. The most recent survey by the Honduran National Institute of Statistics in 2002 determined that approximately 367,405 children (or 16 percent of children) work illegally, the majority for their own families, in the informal sector, and in rural areas. Of the children, 74 percent are boys, 69 percent live in rural areas, 56 percent work in agriculture, and 24.4 percent work in commerce. Of these children, 61 percent work unpaid for their families and 28 percent are paid for work outside their families. Many of these children work out of economic necessity alongside other family members. Boys between the ages of 13 and

18 worked as lobster divers with little safety or health protection. Children who worked on melon and sugarcane farms were exposed to pesticides and long hours.

The NGO Casa Alianza documented more than 1,000 minors in Honduras that were the victims of commercial sexual exploitation in 2003.

There were isolated cases of the employment of children under the legal working age in the maquiladora sector. (Younger children sometimes obtained work permits by fraud or purchase forged permits.)

The Ministry of Labor continued a campaign to increase industry awareness on the worst forms of child labor.

In 2002, the Government swore in new members of the interagency National Commission for the Gradual and Progressive Eradication of Child Labor. The ILO/IPEC continued its programs to eradicate the worst forms of child labor in melon and coffee production. ILO/IPEC also had programs combating the commercial sexual exploitation of children, children working as lobster divers, children working in the garbage dump of Tegucigalpa, and child domestic workers. In addition, an international donor funded an 18-month pilot project, which began in 2003, with an NGO to help provide education to children working or at risk of working in commercial agriculture. In September, an international donor launched a new regional program to combat exploitative child labor in the region and strengthen government and civil society's capacity to address the educational needs of working children. The Ministry of Education developed an Education for All plan to increase access to preschool and primary education; improve the quality of preschool and primary education by encouraging new teaching methods, improving curriculum, and reducing drop-out rates, repetition, and desertion rates; and increase student achievement.

e. Acceptable Conditions of Work.—The law provides for the establishment of a minimum wage. On April 1, minimum wages that were renegotiated by the Government, the private employers' association, and the three labor confederations went into effect for the year. Unlike past years when the raise was backdated to January, the raise was not retroactive. The daily minimum wage scale is broken down by sector and by size of business: small (1–15 workers) and large (16 or more workers). The scale ranges from $2.97 (54.7 lempiras) for workers in small agriculture to $4.88 (89.7 lempiras) for workers in financial/insurance companies and workers in export-oriented businesses (including maquilas and commercial agriculture such as tobacco, coffee, bananas, and seafood). Workers in areas such as construction, services, mining, transportation, communication, etc., had minimum wages in between these two rates. The raise was approximately 12 percent for workers in small agriculture, but approximately 9 percent for most other workers. The inflation rate in 2003 was 6.8 percent.

All workers are entitled to a bonus equivalent to a month's salary in June and December every year. The Constitution and the Labor Code stipulate that all labor must be paid fairly; however, the Ministry of Labor lacked the personnel and other resources for effective enforcement. The minimum wage did not provide a decent standard of living for a worker and family.

The law prescribes a maximum 8-hour workday, a 44-hour workweek, equivalent to 48 hours' wages, and at least one 24-hour rest period for every 6 days of work. The Labor Code provides for a paid vacation of 10 workdays after 1 year, and of 20 workdays after 4 years. The law requires overtime payment for hours in excess of the standard. There are prohibitions on excessive compulsory overtime. However, employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Ministry of Labor. Foreign workers enjoyed equal protection under the law, although the process for a foreigner to obtain a work permit from the Ministry of Labor was cumbersome.

The Ministry of Labor is responsible for enforcing national occupational health and safety laws, but does not do so consistently or effectively. During the year, the Ministry of Labor received technical assistance, training, and equipment from an international donor to improve its regulatory capacity. There were 14 occupational health and safety inspectors throughout the country. The informal sector, comprising more than 52 percent of all employment according to the Ministry of Labor, was regulated and monitored poorly. Worker safety standards also were poorly enforced in the construction industry. Some complaints alleged that foreign factory managers failed to comply with the occupational health and safety aspects of Labor Code regulations in factories located in the free trade zones and in private industrial parks (*see* Section 6.b.). There is no provision allowing a worker to leave a dangerous work situation without jeopardy to continued employment.

JAMAICA

Jamaica is a constitutional parliamentary democracy. In the free and fair 2002 general elections, Prime Minister P.J. Patterson's People's National Party (PNP) won 34 of the 60 seats in the House of Representatives. The PNP also was allocated 13 seats in the 21-seat Senate. The judiciary is independent but lacked adequate resources.

The Jamaica Constabulary Force (JCF) had primary responsibility for internal security and was assisted by the Island Special Constabulary Force. The Jamaica Defence Force (JDF—army, air wing, and coast guard) was charged with national defense, marine narcotics interdiction, and JCF support. The JDF had no mandate to maintain law and order and no powers of arrest (although the coast guard had powers of maritime arrest), unless so ordered by the Prime Minister. Two JDF battalions were detached as part of a joint internal security operation to assist the JCF in patrolling certain communities. The Prime Minister occasionally authorized the JDF to cordon and search. The Ministry of National Security oversaw the JCF and the JDF. Civilian authorities generally maintained effective control of the security forces; however, some members of the security forces committed serious human rights abuses.

The market economy was based largely on tourism, production of primary products (bauxite and aluminum, sugar, bananas), and remittances. The country's population was approximately 2.7 million. The economy grew by an estimated 3 percent during the year. While wages and benefits generally kept pace with inflation, there was a large gap between the wealthy and the impoverished. On September 11, heavy rains and strong winds from Hurricane Ivan damaged nearly every sector of the economy. It was estimated that the hurricane adversely impacted gross domestic product growth by approximately 2 percent.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the security forces committed unlawful killings. Mob violence against and vigilante killings of those suspected of breaking the law remained a problem. Police and prison guards allegedly abused detainees and prisoners. Although the Government moved to investigate incidents of police abuses and punish some of those police involved, continued impunity for police who commit abuses remained a problem. Prison and jail conditions remained poor; overcrowding, brutality against detainees, and poor sanitary conditions were problems. There were reports of arbitrary arrest and detention. The judicial system was overburdened, and lengthy delays in trials were common. Violence and discrimination against women remained problems. Trafficking in persons was a problem. There were cases of societal discrimination against persons with disabilities. Violence against individuals suspected or known to be homosexuals occurred, as did discrimination against persons living with HIV/AIDS. Child labor was a problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reported politically motivated killings by the Government or its agents; however, security forces committed some unlawful or unwarranted killings during the year.

The police frequently employed lethal force in apprehending criminal suspects. Police encounters with criminals resulted in 119 deaths (including 11 police officers) compared with 127 deaths (including 13 police officers) in 2003. While allegations of "police murder" remained frequent, the validity of some allegations was suspect. The country faced a critical crime situation with a homicide rate exceeding 54 per 100,000 persons, the highest in its history. Well-armed gangs that trafficked in narcotics and guns controlled many inner-city communities. The gangs often were equipped better than the police force and conducted coordinated ambushes of joint security patrols.

In October, the U.N. Commission on Human Rights released the report of the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, which stated that the country had an unacceptably high number of questionable police shootings and should hold more policemen accountable for their actions. The Ministry of Foreign Affairs and Foreign Trade called the report "fairly balanced," and noted that measures to improve the situation had been taken.

On March 2, police killed three men in Burnt Savannah, Westmoreland, in what police described as a shootout. However, eyewitnesses claimed that police ordered the men from their car and shot them at close range. The civic action group Families Against State Terrorism met with witnesses and assisted in protecting the

crime scene. The investigation by the Bureau of Special Investigations (BSI) continued at year's end.

On September 19, members of the JDF allegedly killed Sandra Sewell and Gayon Alcott in August Town, St. Andrew. JDF soldiers, along with police officers, were patrolling the area to enforce a curfew during the state of public emergency that was imposed during and immediately following Hurricane Ivan. At year's end, an investigation by the BSI, with assistance from an outside forensic expert provided by Amnesty International (AI), was ongoing.

On December 24, police killed 15-year-old Donovan Hayles and 7-year-old Shakeira Thompson and injured two others in Old Braeton, St. Catherine. The JCF described the incident as a shootout with gunmen; however, local residents claimed Hayles was disarmed, and that police randomly fired assault rifles to give the appearance of a shootout, killing Thompson in the process. The BSI was investigating the incident at year's end.

On April 21, following months of investigations, the Department of Public Prosecutions (DPP) charged six JCF officers, including Senior JCF Superintendent Reneto Adams, in the 2003 killing of four people at a home in Crawle, Clarendon. At year's end, a court date was set for February 2005.

Following independent investigations by AI, the DPP overturned the decision of a coroner's jury and charged six police officers in the 2001 killing of seven youths in Braeton, St. Catherine. The trial was scheduled to begin in January 2005.

In April, the JCF announced that officers from Scotland Yard had been called to assist with the investigation of the 2003 police killing of two elderly men in the community of Flankers, St. James. The BSI-led investigation was ongoing at year's end.

On December 2, a 12-member jury in the Home Circuit Court acquitted two policemen charged with the 2002 murder of 7-year-old Romaine Edwards.

There were no developments and none were expected in the 2002 police killing of Daemon Roache.

On October 1, the Chief Justice denied a joint family-nongovernmental organization (NGO) appeal for judicial review of the 2000 police killing of Janice Allen, reportedly for a lack of evidence. AI stated that the investigation was "marred by witness intimidation, official incompetence, and delay." The DPP had ordered the responsible police officer arrested and charged in 2003, but a judge subsequently dismissed the case. The family was planning an appeal for judicial review in the Supreme Court, and was awaiting a court date at year's end.

During the year, at least two detainees died while in police custody; there was no evidence of negligence.

Vigilantism and spontaneous mob killings in response to crime continued to be a problem. There were at least 14 vigilante killings during the year, with varying motives. On August 9, a mob killed a man in the parish of St. Catherine who was accused of killing a woman and injuring her daughter. Human rights advocates contended that police did not consider such killings a priority and expressed concern that the perpetrators rarely were charged.

On June 9, unknown assailants stabbed and killed Brian Williamson, one of the country's most visible homosexual rights activists (*see* Section 5).

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

On December 23, police allegedly abducted two men in Kingston. Witnesses reported that two members of the JCF Organized Crime Unit (OCU) handcuffed and took two men into custody. At year's end, the two men remained missing, and one of the OCU officers was detained in police custody. The media reported that the JCF called in Scotland Yard officers to assist in the investigation.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, reports of physical abuse of prisoners by guards continued, despite efforts by the Government to remove abusive guards and improve procedures. There were also credible reports that police abused detainees in custody.

The law prohibits homosexual relationships, and a culture of severe discrimination persisted. There were numerous cases of violence against persons based on sexual orientation, including by police and vigilante groups (*see* Section 5).

In March, six police officers were accused of raping a prostitute in Negril, Westmoreland. The officers were transferred following the incident but remained on front line duty. The BSI was investigating the case and awaiting results of DNA tests at year's end.

Prison conditions remained poor and often were characterized by overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care. There were no reports of prison riots. There were at least two reports of riots at police detention centers.

At year's end, the proceedings brought by the Public Defender seeking compensation from the Government for a prisoner who allegedly was beaten to death by other prisoners in 2002 at Mandeville police station were halted after the results of an independent post-mortem proved inconclusive.

There were no new developments and none were expected in two 2002 cases of prisoners in Bull Bay and Manchester police lockups who died in police custody.

A separate prison for women—the Fort Augusta Women's Prison—was housed in a 19th century fort. Sanitary conditions were poor, although far less so than in the men's prisons because there was less overcrowding. Fort Augusta was also relatively safer and had less violence than the men's prisons, despite inmate complaints of beatings by guards. The Constitution prohibits the incarceration of children in adult prisons; however, in practice, some juveniles were held with adults. The majority of pretrial detainees were held in police custody, either in police stations or in remand centers, separate from convicted prisoners.

In general, the Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—The Constabulary Force Act permits the arrest of persons "reasonably suspected" of having committed a crime. There were some reports of arbitrary arrest during the year, and the authorities continued to detain suspects, particularly those from poor neighborhoods, without bringing them before a judge within the prescribed period.

The JCF falls under the direction of the Ministry of National Security and is headed by a Commissioner who delegates authority through the ranks to its constables. The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs. Faced with rapidly increasing rate of killings, the JCF generally was not effective. The country experienced the highest level of violent crime in its history, and the perception of corruption and impunity within the force were serious problems that contributed to a lack of public confidence in the institution. Human rights groups identified systematically poor investigative procedures and weak oversight mechanisms. Failure to protect witnesses led to the dismissal of criminal trials.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The JCF's BSI, which employed 26 investigators, specifically addresses police shootings. The BSI completed investigations of 32 of 383 shooting incidents during the year and sent them to the DPP. The DPP ruled on 13 cases and sent 5 to criminal courts. One officer was found criminally liable. The BSI supplemented the JCF Office of Professional Responsibility, which investigated police corruption and other misconduct, and the civilian Police Public Complaints Authority (PPCA), which oversaw investigations of the other two bodies and could initiate its own investigations. The PPCA had seven investigators.

The JCF continued an initiative of "community policing" to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. The Police Federation conducted training programs for policemen on citizens' rights. The Government and the Independent Jamaica Council for Human Rights developed human rights materials that were used in a number of primary schools across the country. The group was developing additional educational materials at year's end.

Human rights advocates contended that police did not consider killings by vigilante mobs a priority and expressed concern that the perpetrators rarely were charged (*see* Sections 1.a and 5).

The law requires detained suspects to be charged or released within 24 hours of arrest. The law also requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial), if requested by the detainee, upon detention; however, the authorities continued to wait until after detainees had been identified in an identification lineup before contacting duty counsel for them. There was a functioning bail system. The State provides indigent detainees access to counsel through the legal aid program, and detainees were provided with prompt access to family members.

The law requires police to present a detainee in court within a reasonable time period; however, in practice authorities continued to detain suspects for lengthy periods, which the Government attributed to an overburdened court system (*see* Section 1.e.). Magistrates were required to inquire at least once a week into the welfare of each person listed by the JCF as detained.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judicial system was overburdened and operated with inadequate resources.

Three courts handle criminal matters at the trial level. Resident magistrates try misdemeanors. A Supreme Court judge tries more serious felonies, except for felonies involving firearms, which are tried before a judge of the Gun Court. Defendants have the right to appeal a conviction in any of the three trial courts to the Court of Appeal, which is the highest court in the country. This appeal process resulted in frequent delays. The Constitution allows the Court of Appeal and the Parliament, as well as defendants in civil and criminal cases, and plaintiffs in civil cases, to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judiciary's lack of sufficient staff and resources hindered due process, and the BSI also had a large backlog. Trials in many cases were delayed for years, and other cases were dismissed because files could not be located or had been destroyed. A night court had some success in reducing the backlog of cases. The Supreme Court used mediation through the Dispute Resolution Foundation as an alternative to traditional trials, which alleviated some of the backlog in that court. The Resident Magistrate Courts also used alternative dispute resolution in limited cases. The lack of an effective witness protection program led to the dismissal of a number of cases involving killings.

Most trials are public and use juries. Defendants have the right to counsel. Legal Aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act. The Public Defender may bring cases for persons who have had their constitutional rights violated. The Public Defender's Office contracted private attorneys to represent clients; however, funds were insufficient to meet the demand, and attorneys sometimes requested payment from clients.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions; however, the revised Constabulary Force Act gives security personnel broad powers of search and seizure. The Act allows search without a warrant of a person on board or disembarking from a ship or boat, if a police officer has good reason to be suspicious. In practice, the police conducted searches without warrants. There were no allegations of unauthorized wiretapping by the police.

On February 10, the courts cleared Devon Francis of charges of breaching the Public Utilities Act in 2000 after he wiretapped telephones without proper authorization.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The independent media were active and expressed a wide variety of views without restriction. However, some local media professionals expressed concern that the country's libel law limited their freedom of expression. Specifically, news outlets reported the need to self-censor investigative reports because of the potential for courts to award high damages in cases of defamation. In April, the Director of Public Prosecutions threatened to monitor and prosecute talk show hosts who discussed criminal cases pending before the courts. The DPP expressed concern that widespread public discussion in the media of specific aspects of criminal cases made it difficult to select a jury that would ensure a fair hearing by an independent and impartial court, as required by the Constitution. However, no such prosecutions had been enforced at year's end.

At year's end, the Gleaner Company continued to fight a lawsuit that arose from a story it published concerning a corrupt public official.

The Government did not restrict access to the Internet.

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

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

Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief or were due to the group's illegal use of marijuana as part of Rastafarian religious practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile and there were no reports that it occurred.

The Constitution does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and handled refugee or asylum cases administratively. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers but did not grant refugee status or asylum.

The Government provided temporary protection to more than 500 individuals who did not qualify as refugees under the 1951 Convention/1967 Protocol. The Government, with the assistance of UNCHR, provided 500 Haitians with temporary protection and resettlement. Approximately 281 Haitians applied to the Government for refugee status, but their applications were denied in accordance with the 1951 Convention. Approximately 200 Haitians appealed the decision, and trials were scheduled to begin in January 2005.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage. All citizens age 18 and over have the right to vote by secret ballot. However, in recent elections, voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties often faced substantial influence and pressure from politically connected gangs and young men hired by political parties, which impeded the free exercise of their right to vote.

Two political parties—the PNP and the Jamaica Labor Party (JLP)—have alternated in power since the first elections in 1944. The PNP held 34 of the 60 seats in the popularly elected House of Representatives and 13 of the 21 seats in the appointed Senate.

Following the July killing of reputed Spanish Town gang leader Oliver Smith, police investigators learned that the car Smith was driving at the time of his death was registered to Olivia Grange, a Member of Parliament. Grange, a former JLP deputy leader, explained that she had simply assisted her constituent by co-signing the car loan. The incident raised public questions of government corruption. The investigation was ongoing at year's end.

On December 9, the Senate noted the omission of party financing regulations as a glaring gap in the 2003 Corruption Prevention Act. On the same day, the Senate passed an amendment to the Act that closed reporting loopholes for state employees.

The Access to Information Act (ATI), signed in 2002, entered its first phase on January 5. The ATI provided public access to information held by seven government ministries and agencies.

There were no legal restrictions on the participation of women in politics. There were 7 women in the 60-seat House of Representatives, and 4 women in the 21-seat Senate. Three of the 17 cabinet members were women, and women held approximately 30 percent of the senior civil service positions.

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

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

The Independent Jamaica Council for Human Rights was the country's only formal organization concerned with all aspects of human rights. The NGO Jamaicans for Justice focused on the issues of police impunity, extrajudicial killings, and excessive use of force by the police and wrote a weekly newspaper column. Jamaicans for Justice reported that undercover police regularly attended its meetings; nevertheless, the group professed to have a cordial relationship with the police and sat on two of the police consultative boards.

The Public Defender's Office brings cases on behalf of those who charged that their constitutional rights were violated. The office contracted private attorneys to bring suits against the Government on behalf of private citizens. During the year,

the Public Defender began working on an overall anti-discrimination bill, which would create an Anti-Discrimination Commission to make decisions about grievances. The Public Defender won compensation for at least four of the families of victims killed during the 2001 shoot-out in Tivoli Gardens, West Kingston, between members of the community, the JCF, and the JDF. A class action lawsuit was pending at year's end, but parties involved believed that all outstanding cases would be settled within a year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government generally enforced these prohibitions in practice, although there continued to be widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, particularly in the garrison communities (*see* Section 3).

Women.—Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women was widespread, but many women were reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. The Domestic Violence Act provides remedies for domestic violence, including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to approximately $160 (J$10,000) and 6 months' imprisonment. The Government's Bureau of Women's Affairs operated crisis hotlines and shelters and managed a public education campaign to raise the profile of domestic violence.

Rape was illegal and carried a penalty of up to 25 years' imprisonment with hard labor. During the year, the number of reported incidents of rape decreased by 8 percent; however, NGOs stressed that the vast majority of rapes were not reported. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes. During the year, in Kingston/St. Andrew, there were 208 arrests, of which 50 cases went to court and 25 ultimately were convicted and sentenced.

On August 8, the country's most prominent evangelical pastor, Bishop Herro Blair, delivered a sermon in Kingston in which he reportedly warned young women that current styles of dress invited rape. The Bureau of Women's Affairs rejected the claim as baseless.

The law prohibits prostitution; however, it was widespread, particularly in tourist areas.

There is no legislation that addresses sexual harassment, and it was a problem. There were reports of sexual harassment of women by the police, but some observers believed that women often did not report such incidents because there was no legal remedy.

The Constitution and the Employment Act accord women full legal equality; however, in practice, women suffered from discrimination in the workplace and often earned less than their male counterparts. The Bureau of Women's Affairs, reporting to the Minister of Development, oversaw programs to protect the legal rights of women. These programs had limited effect but raised the awareness of problems affecting women.

During the year, the Government took steps to reduce gender bias in legislation. On February 17, Parliament passed the Family Property (Rights of Spouses) Act to provide for the equitable division of property between spouses following a divorce. On December 7, Parliament passed an amendment to the Domestic Violence Act that expanded the definition of a child to anyone under 18 years old and extended the provisions of the act to include couples living in separate domiciles.

There was an active community of women's rights groups, including Women's Media Watch, the Women's Political Caucus, the St. Peter Claver Women's Housing Cooperative, the Women's Construction Collective, the Sistren Theatre Collective, Woman Inc., and the Centre for Gender and Development Studies at the University of the West Indies. Among the major concerns of these groups was the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women.

Children.—The Government was committed to improving children's welfare. The Ministry of Education, Youth, and Culture was responsible for implementation of the Government's programs for children. Public primary education was free, universal, and compulsory for students between the ages of 6 and 11, and the Ministry of Education reported that 99 percent of children in that age group were enrolled in school. However, economic circumstances obliged thousands of children to stay home to help with housework and avoid school fees. As a result, attendance rates at primary schools averaged 78 percent, although some rural areas reported attend-

ance as low as 50 percent. More than 70 percent of children between the ages of 12 and 16 had access to secondary school, and UNICEF reported that most children completed secondary education.

Medical care was widely available, and boys and girls enjoyed equal access.

There was no societal pattern of abuse of children; however, there were numerous reports of rape and incest, particularly in inner cities. NGOs reported that inner city gang leaders and sometimes even fathers initiated sex with young girls as a "right." There were 409 cases of statutory rape—sex with girls under 16—reported, an 8 percent increase over the same period in 2003. The Government expressed concern about child abuse and acknowledged that incidents were underreported. The Child Development Agency (CDA) held training sessions to familiarize police officers with the rights of children and to prepare them to enforce the Child Care and Protection Act.

Child prostitution and trafficking for the purposes of sexual exploitation were problems (*see* Section 5, Trafficking).

In March, the House of Representatives and the Senate passed the Child Care and Protection Act, which replaced the Adoption of Children Act and the Juvenile Act. The Act generally provided for more support for the family unit and the improved safety of children, including prohibitions against trafficking in minors. It also established mechanisms, including a central child abuse registry and an Office of Children's Advocate, to monitor and defend the well being of children.

On May 31, the Government commissioned the Ministry of Health's CDA as an executive agency to consolidate all children's services under one administrative umbrella, and to oversee the successful implementation of the Child Care and Protection Act.

Trafficking in Persons.—The law does not prohibit specifically trafficking in persons; however, there were laws against assault and fraud, and other laws established various immigration and customs regulations. Trafficking in children was a problem, and there were reports that persons were trafficked primarily within the country.

The Child Care and Protection Act passed during the year specifically prohibits the sale or trafficking of minors and provides that violators receive the maximum penalty under the law. The law subjected convicted traffickers to a fine or imprisonment with hard labor for a term not exceeding 10 years, or both.

The International Labor Organization (ILO) estimated that several hundred minors were involved in the country's sex trade.

The country was also a transit country for illegal migrants moving to the United States and Canada, some of whom were believed to be trafficking victims. Groups at a special risk for trafficking included rural migrants who sought work in cities and tourist areas, usually in the sex industry. Corruption among immigration officials in facilitating the unauthorized international movement of persons was a concern. In November, the Government instituted a passenger entry and exit system to enhance efforts to detect transnational trafficking.

While there was no formal policy for protecting child trafficking victims, the Government enforced the Child Care and Protection Act. There were no government-funded shelters specifically for trafficking victims, but the CDA managed facilities for at-risk children. The Government provided funding to NGOs that worked to reintegrate child laborers who were victims of trafficking.

The Ministry of Health designed a public awareness campaign to inform the public about the Child Care and Protection Act, which contains a provision that prohibits trafficking in minors. The Ministry of Education sponsored programs to encourage families to keep children in school.

Persons With Disabilities.—No laws mandate accessibility for persons with disabilities, and such persons encountered discrimination in employment and denial of access to schools. Health care and other state services were reported to be universally available. Several government agencies and NGOs provided services and employment to various groups of persons with disabilities. The Statistical Institute of Jamaica reported that out of a disabled population of approximately 163,000, about 14 percent was employed gainfully.

Other Societal Abuses and Discrimination.—The Offenses Against the Person Act prohibits "acts of gross indecency" (generally interpreted as any kind of physical intimacy) between men, in public or in private and is punishable by 10 years in prison. Prime Minister Patterson stated that the country would not be pressured to change its anti-homosexual laws.

The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report allegations of human rights abuses, including police harassment, arbitrary detention, mob attacks, stabbings, harassment of homosexual patients by hospital

and prison staff, and targeted shootings of homosexuals. Police often did not investigate such incidents. Some of the country's most famous dancehall singers gained the attention of international human rights groups during the year for their homophobic lyrics, which incited violence against homosexuals. A 2001 poll found that 96 percent of citizens were opposed to legalizing homosexual activity.

On June 9, Brian Williamson, a prominent homosexual rights activist and founding member of J-FLAG, was found stabbed to death at his home in Kingston. Human rights groups believed that the brutality of Williamson's death indicated a hate crime, but the JCF maintained that the crime was a robbery. A suspect was remanded in custody at year's end.

On June 24, a group of armed men, reportedly including famous dancehall artist Buju Banton, forced their way into a house in Kingston and beat two occupants while shouting homophobic insults. Human Rights Watch expressed concern that Banton may never face charges and warned that the artist's fame and the stigma attached to the homosexual victims hindered a thorough and expedient police investigation. At year's end, Banton had been arrested and released on bail; there was no information concerning the others involved.

Male inmates deemed by prison wardens to be homosexual are held in a separate facility for their protection. The method used for determining their sexual orientation is subjective and not regulated by the prison system. There were numerous reports of violence against homosexual inmates, perpetrated both by the wardens and by other inmates, but few inmates sought recourse through the prison system.

Homosexual men were hesitant to report incidents against them because of fear for their physical well being. Human rights NGOs and government entities agreed that brutality against homosexuals, both by police and private citizens, was widespread in the community.

No laws protected persons living with HIV/AIDS from discrimination. Human rights NGOs reported severe stigma and discrimination for this group. Although health care facilities were prepared adequately to handle patients with HIV/AIDS, health care workers often neglected such patients.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form or join a trade union, and unions functioned freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. There was a spectrum of national unions, some of which were affiliated with political parties. Between 10 and 15 percent of the work force was unionized. Some companies laid off union workers then rehired them as contractors with reduced pay and benefits, a practice considered legal as long as workers receive severance pay.

b. The Right to Organize and Bargain Collectively.—The law permits unions to conduct their activities without interference, and the Government protected this right in practice. An independent Industrial Disputes Tribunal (IDT) hears cases when management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handled 35 to 40 cases each year. Most were decided within 90 days, but some took longer to resolve due to the complexity of the dispute or delays requested by the parties.

Collective bargaining is denied to a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated with the union). The ILO Committee of Experts (COE) considered that, where there was no collective bargaining agreement and where a trade union did not obtain 50 percent of the votes of the total number of workers, the union should be able to negotiate at least on behalf of its own members. The COE requested the Government to take necessary measures to amend this legislation. The Government contended that this would unduly lengthen negotiations.

The LRIDA neither authorizes nor prohibits the right to strike, but strikes did occur. Striking workers could interrupt work without criminal liability but could not be assured of keeping their jobs. Other than in the case of prison guards, there was no evidence of any workers losing their jobs over a strike action. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision the ILO repeatedly criticized as overly inclusive.

Domestic labor laws applied equally to the "free zones" (export processing zones). However, there were no unionized companies in any of the 3 publicly owned zones, which employed approximately 6,000 workers. Organizers attributed this circumstance to resistance to organizing efforts by foreign owners in the zones, but attempts to organize plants within the zones continued. Company-controlled "workers' councils" handled grievance resolution at most free zone companies, but they did not

negotiate wages and conditions with management. Management determined wages and benefits within the free zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and, in practice, it performed them at 6- to 9-month intervals.

c. Prohibition of Forced or Compulsory Labor.—The Constitution does not specifically prohibit forced or compulsory labor, including by children, but other than child prostitution, there were no reports that such practices occurred (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Child Care and Protection Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. It also prohibits children under the age of 15 from industrial employment. The police are mandated with conducting child labor inspections, and the CDA is charged with finding places of safety for children. However, according to CDA officials, resources to investigate exploitative child labor were insufficient. Children under the age of 12 peddled goods and services or begged on city streets. There were also reports that underage children were employed illegally in fishing communities and in prostitution (*see* Section 5).

In June, the ILO, the International Program on the Elimination of Child Labor (IPEC), and the Ministry of Labor and Social Security hosted a workshop as part of the National Program for the Prevention and Elimination of Child Labor. The resulting draft plan of action defined a clear path for future action and identified lead agencies to seek the resources necessary to develop the plan.

e. Acceptable Conditions of Work.—The Government sets the minimum wage, after receiving recommendations from the National Minimum Wage Advisory Commission. During the year, the minimum wage was changed to $32 (J$2,000) per week and $1.20 (J$80) per hour for private security guards. The minimum wage did not provide a decent standard of living for a worker and family. Most workers were paid more than the legal minimum, except in the tourism industry.

The law provides for a standard 40-hour workweek and mandates at least 1 day of rest per week. Work in excess of 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that was observed widely. The law does not prohibit excessive compulsory overtime, and some employees, including security guards, regularly are required to work 12-hour shifts without overtime compensation.

The Ministry of Labor's Industrial Safety Division sets and enforces industrial health and safety standards, mainly through factory inspections. Insufficient staffing in the Ministries of Labor, Finance, National Security, and the Public Service contributed to the difficulties in enforcing workplace regulations.

Industrial accident rates remained low. The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.

MEXICO

Mexico is a federal republic composed of 31 states and a federal district, with an elected president and a bicameral legislature. In 2000, voters elected President Vicente Fox Quesada of the Alliance for Change Coalition in elections that observers judged to be generally free and fair. In 2003, there were federal elections to select members of Congress. The judiciary is generally independent; however, on occasion, it was influenced by government authorities, particularly at the state level. Corruption, inefficiency, disregard of the law, and lack of training were major problems.

The police forces, which include federal and state judicial police, the Federal Preventive Police (PFP), municipal police, and various police auxiliary forces, have primary responsibility for law enforcement and maintenance of order within the country. The military played a large role in some law enforcement functions, primarily counternarcotics. There were approximately 5,000 military personnel on loan to the PFP during the year. Elected civilian officials maintained effective control over the police and the military; however, corruption was widespread within police ranks and to a lesser extent in the military. There have also been instances of state and local police involvement in kidnappings and extortion. The military maintained a strong presence in the state of Chiapas and a lesser, but still significant, deployment in Guerrero. Military personnel and police officers committed human rights abuses.

The country has a market-based economy and a population of approximately 105 million. Gross domestic product was expected to grow by 4 percent during the year. Leading exports included petroleum and manufactured and assembled products, including electronics and consumer goods. Average manufacturing wages increased by 1.2 percent during 2003, less than the 3.98 percent rate of inflation in the same period. An estimated 25 percent of the population resided in rural areas where subsistence agriculture was common. Income distribution remained skewed: In 2002, the top 10 percent of the population earned 36 percent of total income, while the bottom 20 percent earned only an estimated 4 percent.

The Government generally respected many of the human rights of its citizens; however, serious problems remained in several areas, and in some states, especially Guerrero, Chiapas, and Oaxaca, a poor climate of respect for human rights presented special concern. State law enforcement officials were accused of committing unlawful killings. There were vigilante killings during the year. Disappearances continued to occur. Kidnapping became a larger problem, with an unofficial estimate of 3,000 kidnappings during the year, some with alleged police involvement. The police sometimes tortured suspects to force confessions. Prosecutors used this evidence in courts, and the courts continued to admit as evidence confessions extracted under torture. Impunity remained a problem among the security forces, although the Government continued to sanction public officials, police officers, and members of the military. Alleged police involvement, especially at the state level, in narcotics-related crime, continued, and police corruption and inefficiency hampered investigations.

Narcotics related killings and violence increased, particularly in the Northern States. Prison conditions were poor. The police continued to arrest and detain citizens arbitrarily. During the year, judicial reforms continued to take effect; however, lengthy pretrial detention, lack of due process, and judicial inefficiency and corruption persisted. Indigenous people's access to the justice system continued to be inadequate. The authorities on occasion violated citizens' privacy. Human rights groups and the media reported that armed civilian groups in the State of Chiapas continued to commit human rights abuses.

Three journalists were killed during the year in the Northern States of Baja California and Tamaulipas. Some journalists, particularly in the Northern States, practiced self-censorship in response to threats from narcotics traffickers. Corrupt members of the police sometimes violated the rights of illegal immigrants. Human rights workers continued to be subjected to attacks and harassment; however, reports of such attacks diminished. Violence and discrimination against women, indigenous people, religious minorities, homosexuals, and individuals with HIV/AIDS persisted. Sexual exploitation of children continued to be a problem. Trafficking in persons, including children, remained a problem, and there were credible reports that police and other officials were involved in trafficking. There were credible reports of limits on freedom of association and worker rights. There was extensive child labor in agriculture and the informal economy.

The peace process in Chiapas remained stalled at year's end. Sporadic outbursts of politically motivated violence continued to occur throughout the country, particularly in the Southern States of Chiapas, Guerrero, and Oaxaca.

In June, Amnesty International (AI) visited the states of Guerrero, Oaxaca, and Veracruz. AI concluded that the Federal Government had taken positive steps, especially with its legislative proposals, but serious problems remained at the state and local level. In particular, AI remained concerned about the manipulation of the justice system against those who claim their rights under it, arbitrary actions by officials, and the presence of the army in indigenous communities.

In April, Anders Kompass, the in-country representative for the U.N. High Commissioner for Human Rights, praised the Government for advances made in the promotion of human rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, security forces killed several persons during the year.

In January, municipal police in Zapotitlan Tablas, Guerrero State detained Socrates Tolentino Gonzales Genaro. He subsequently died in police custody; his mother was forced to sign an affidavit stating that he had committed suicide. The exhumation of his body in March revealed that he had been beaten severely before he died.

In May, federal investigative agents allegedly beat street vendor Manuel Zarate Villaruel, who then died from his injuries. The PGR claimed that Zarate died from

asphyxiation; however, the attorney general in Mexico City claimed that the beating caused Zarate to vomit, which in turn caused asphyxiation. In June, Mexico City police arrested seven AFI agents who remained in custody pending investigation at year's end.

In July, reputed Institutional Revolutionary Party (PRI) supporters in Huatla, Oaxaca, beat Serafin Garcia to death on the eve of the Oaxaca gubernatorial election. Garcia was a member of a group opposing the PRI and was blocking the path of a PRI march. The event was photographed by a Mexico City daily. In December, Jacinto Pineda Casimiro was detained and accused of the killing.

During the year, the media reported "assassinations" of indigenous leaders in Chiapas and Guerrero. In Chiapas, paramilitary groups were believed responsible for the deaths, and in Guerrero it was believed that the August killing of Maximiano Cristobal Lorenzo was politically motivated. There was no further information available on these cases at year's end.

In September, the PRI mayor of San Jose Estancia Grande, Oaxaca, allegedly killed his rival PRD candidate, Guadalupe Avila Salinas, while she was campaigning. At year's end, the state Attorney General's office continued to search for the fugitive mayor.

During the year, the bodies of 16 dead women were found in Ciudad Juarez according to media reports (*see* Section 5).

In August, a federal judge sentenced former federal investigative agent Armando Muro Arellano to prison and also ordered prison terms for four other ex-AFI agents in connection with the 2002 death of Guillermo Velez Mendoza.

In July 2003, law enforcement agents of the Chiapas State Attorney General's office (PGJE) accused Andres Vidales Segovia, a soldier assigned to the 31 Military Zone in Chiapas, and 3 others, for the killing Abelino Encino Guzman, an indigenous Tzeltal in Tenejapa, Chiapas. The investigation into the death continued at year's end.

According to the Hidalgo State Human Rights Commission, the state attorney general determined that only 1 of the 4 police officers originally arrested was responsible for the killing of 22-year-old Fernando Garcia Morales, and at year's end, that officer (name not provided) was in jail pending judicial proceedings.

There were no new developments and none were expected in the 2002 shooting of Josue Ulises Cruz Banda by Mexico City police. Early in the year, the Mexico City Human Rights Commission (CDHDF) found that human rights violations had occurred, ordered the city secretary for public security to pay an unspecified sum of money to Mr. Cruz's family, and asked that mechanisms be put in place to evaluate course effectiveness regarding use of force. In addition, it ordered the city attorney general to adhere more closely to autopsy models in its manual on Prevention and Effective Investigations of Extralegal, Arbitrary, or Summary Executions.

At year's end, charges remained pending against 3 of the original 14 persons in the 2002 massacre of peasant farmers near Agua Fria, Oaxaca.

In August, a court released for lack of evidence Vicente Pena Zuniga, Efrain Cruz Bruno, and Nicasio Bernardino Gomez, accused of the 2001 killing of Fidel Bautista Mejia in Putla, Oaxaca.

There were deaths in prison during the year (*see* Section 1.c).

There were numerous reports of executions carried out by rival drug gangs, whose members included both active and former federal, state, and municipal security personnel. There were several instances in which members of security forces were apprehended working for or with narcotics traffickers. Throughout the country, but particularly in the northern border states, violence related to narcotics trafficking increased. Local and international press reports indicated a group known as the "Zetas," composed of former soldiers, was working with drug trafficking organizations.

There were no new developments and none were expected in the following cases: The 1997 killing of 45 persons in Acteal, Chiapas; the suicide case of Air Force Lieutenant Jose Raul Vargas Cortez; and the 1995 case of the massacre of 17 indigenous farmers in Aguas Blancas.

The National Commission for Human Rights (CNDH) reported it received 41 complaints against the military from January through August. The nature of the complaints was not specified.

There were incidents of vigilante justice, and several occasions when authorities prevented such incidents. On November 23, two undercover agents of the PFP were killed and one seriously injured in the Mexico City district of Tlahuac. The agents were conducting an operation against narcotics trafficking; however, a mob believed they were attempting to kidnap children. Thirty-three persons were in custody at year's end.

Investigations were ongoing at year's end into the March 2003 lynching of Mariano Garcia Escamilla by residents of Tlayecac, in Morelos State.

b. Disappearance.—There were no reports of politically motivated disappearances; however, there were credible allegations of police involvement in kidnappings for ransom. Kidnapping became a larger problem with kidnappers targeting all economic classes of citizens. Unofficial estimates indicated 3,000 kidnappings occur per year in the country, with alleged police involvement in some cases.

In January, federal authorities unearthed the remains of 12 men buried in the back yard of what apparently was a drug trafficker's safe-house in Ciudad Juarez. The head of the PGR's anti-organized crime unit (SIEDO) announced that members of the Chihuahua State Judicial Police (PJE) had carried out the forced disappearances and killings at the behest of the Juarez drug cartel. The authorities arrested 13 PJE agents and 4 more were at large at year's end.

During the year, the bodies of 16 more women were found in Ciudad Juarez according to media reports (*see* Section 5).

During the year, the Oaxaca State human rights commission opened an investigation into the April and June 2003 disappearances of Marcelino Santiago Pacheco, leader of the Organization of Indigenous Zapotec People (OPIZ), and his brother Anselmo Santiago Pacheco. At year's end, both men remained missing.

There were no developments, and none were expected in the 2002 disappearance case of Jesus Angel Gutierrez Olvera.

Late in 2003, the Supreme Court ruled that the statute of limitations does not apply to cases from the "dirty war" of 60s, 70s, and 80s. The Court argued such crimes were continuing offenses until the victim was located. During the year, AFI agents arrested Miguel Nazar Haro, who directed the Federal Security Directorate, and Juventino Romero Cisneros, a former agent of the Federal Security Directorate, for the 1975 kidnapping of Jesus Piedra Ibarra, a member of a leftist urban guerilla group. At year's end, Nazar remained under house arrest awaiting trial. Romero remained imprisoned. In July, a judge denied Special Prosecutor for Investigating Human Rights Abuses Against Social and Political Movements of the Past (FEMOSPP) Ignacio Carrillo Prieto's request to issue an arrest warrant against former President Luis Echeverria for genocide. The Special Prosecutor appealed the decision, and on October 13 the Supreme Court agreed to review the case. In November, Wilfrido Castro Contreras, former Guerrero Judicial Police commander was imprisoned pending his trial for deprivation of liberty in the case of former guerilla Bernardo Reyes Felix.

The military justice trial of Generals Francisco Quiroz Hermosillo and Arturo Acosta Chaparro, implicated in the death or disappearance of 143 persons during the 1970s, continued during the year. However, the judge decided to drop all charges of murder and try them only for drug trafficking. In November, the military Supreme Court reactivated the case against General Arturo Acosta Chaparro, who was accused of killing 22 campesinos during the 1970s.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the law prohibit such practices; however, torture, in particular, continued to be a serious problem. The Constitution excludes as evidence confessions obtained in the absence of the accused person's defense attorney, and the law excludes coerced confessions, including those extracted under torture (*see* Section 1.e.). To be admissible as evidence, confessions must be made to the Public Ministry or a judge and in the presence of a defense attorney. However, the police regularly obtained information through torture, prosecutors used this evidence in courts, and the courts continued to admit as evidence confessions extracted under torture. Many victims were afraid to report or follow through on complaints against the police, thereby hampering prosecution of the perpetrators.

In July, the CNDH reported that in its 14 years of existence, it has received 84,689 complaints and issued 588 recommendations related to torture. From June 1990 through August 31, the CNDH found 904 cases to be human rights violations.

During the year, the Attorney General's office (PGR) established procedures to comply with the Istanbul Protocol to investigate and prosecute claims of torture. On June 23, the Commissioner to Eradicate Violence Against Women in Juarez, Guadalupe Morfin, asked the PGR to apply these guidelines in the cases of: Cynthia Kiecker and Ulises Perzabal, accused of the 2003 killing of Viviana Rayas; David Meza, accused of having killed his cousin in Chihuahua in 2003; and Victor Garcia Uribe, accused of killing 8 women in Ciudad Juarez in 2001. According to Commissioner Morfin's office, Chihuahua State officials blocked the PGR from conducting medical and psychological exams under the Istanbul Protocol in the cases of Kiecker, Perzabal, and Mesa. In October, a court convicted Victor Garcia Uribe of the murder of eight women found in a Ciudad Juarez cotton field in 2001 and sen-

tenced him to 50 years' imprisonment. That same month, the PGR concluded that Uribe had been tortured under Istanbul Protocol procedures. Cynthia Kiecker and Ulises Perzabal were released on December 17.

There were reports police tortured protesters detained in May at the Third Summit of Latin America, the Caribbean, and the European Union in Guadalajara. The CNDH issued a report confirming the protestors' claims and issued recommendations to Francisco Acuna, Governor of Jalisco and to the Mayor of Guadalajara. At year's end, neither the governor nor the mayor had accepted the CNDH's recommendations.

In May, Mario Medina Vazquez claimed he confessed to the killing of newspaper editor Roberto Javier Mora under torture (*see* Section 2.a.).

In March 2003, AI published a report that accused all branches of the security forces of using torture. After detailing the defects in the police/judicial system that enable the use of torture, the report recommended that the Government condemn torture, reform national legislation to forbid torture, end the practice of arbitrary detentions, and admit only those confessions made in the presence of a judge and a qualified defense lawyer. Other recommendations concerned the Public Ministry, police, and judicial changes. In December 2003, the U.N.'s Diagnostic on Human Rights noted the frequent use of torture, especially in murder cases.

The authorities rarely punished officials for torture, which continued to occur in large part because confessions are the primary evidence in many criminal convictions. Many human rights groups linked torture to the prevalence of arbitrary detention and claimed that torture often follows an arbitrary arrest, sometimes without a warrant, as police or prosecutors attempt to justify the detention by securing a confession to a crime (*see* Section 1.d.). Poorly trained and inadequately equipped to investigate crimes, police officers often attempted to solve crimes by rounding up likely suspects and extracting confessions from them by force. According to the Deputy Attorney General for Human Rights at the PGR, as of August, 50 percent of the torture complaints it had received occurred in the States of Mexico, Tlaxcala, and the Federal District.

There were no developments in the case of 17-year-old Valentina Rosendo Cantu, allegedly raped by members of the 41st Infantry Battalion in 2002 when she was washing clothes by a creek.

Many citizens distrusted the justice system, including law enforcement officials, and were reluctant to register official complaints.

Prison conditions remained poor. Many prisons were staffed by undertrained, underpaid, and corrupt guards. Prisoners complained that they must purchase food, medicine, and other necessities from guards or bribe guards to allow the goods to be brought in from outside. In many prisons inmates exercised authority, displacing prison officials. Influence peddling, drug and arms trafficking, coercion, violence, sexual abuse, and protection payoffs were the chief methods of control used by prisoners against their fellow inmates. Prisons varied widely in their ability to meet basic needs of life, keep prisoners safe and healthy, and provide opportunities for work and education; however, almost all fall short in some of these areas. In September, the CNDH released a study on local and municipal jails that found a lack of investment in facilities, salaries and training, an unwillingness on the part of officials to solve problems, and extensive corruption within the jails.

An investigation by the internal affairs division of the municipal police to determine the responsibility of the guards in the case of a 20-year-old unidentified male, who claimed in 2003 that another inmate at the Aldama police station in Ciudad Juarez had robbed and raped him, was ongoing at year's end.

The penal system consists of 448 facilities: 5 federal penitentiaries, 8 federal district prisons, 336 state prisons, and 99 municipal and regional jails. Prison overcrowding continued to be a common problem, despite an early release program endorsed by the CNDH, legal reforms that reduced the number of crimes that carry mandatory prison sentences, and the construction of new prisons. According to press reports, the country's 448 penal facilities were overpopulated; 182,530 prisoners were held in facilities with an official capacity of 147,809.

Health and sanitary conditions were poor, especially in rural poorer States such as Michoacan and Chiapas. Often prisoners must pay for their own prescription medicine. According to the CNDH, most prisons did not have any facilities for treating those requiring psychiatric care.

There were at least five reported deaths in prison during the year. Mario Medina was killed by another inmate and his death resulted in the removal of prison officials in the State of Tamaulipas (*see* Sec. 2.a.). In August, Dennis Crane Hoffman committed suicide in Acapulco. Alberto Soberanes was killed in May, Miguel Angel Beltran in October, and Arturo Guzman in December in the federal prison La Palma.

Female prisoners were held separately from men. Women comprised approximately 4.6 percent or approximately 8,000 of the total prison population. Of the 448 prison facilities in the country, 230 had female prisoners. In March, the CNDH noted that jailed female prisoners lived in worse conditions than male prisoners.

In May 2003, the CNDH announced the results of a study that revealed the vulnerability of female prisoners across the country. The study found that female inmates engaged in prostitution under the direction of inmates and with the acquiescence of prison officials.

Juveniles were held separately from adults. In July 2003, the CNDH reported that it had detected serious violations of basic rights in the majority of 54 juvenile reformatories in the country. The violations included overpopulation, physical abuse and mistreatment, and dormitories with metallic mesh that resembled cages.

Although the Constitution calls for separation of convicted criminals from detainees held in custody, in practice these requirements were disregarded routinely as a result of overcrowding.

There were no developments in the May 2003 CDHDF recommendation against the General Directorate of Prevention and Social Readaptation regarding the torture and abuse in 2002 of inmate Martin Banuelos Gonzalez by six public servants at the Reclusorio Norte and the request to the Federal District Secretary of Government for an investigation to determine responsibility of the six officials for the abuse.

The Government permitted independent monitoring of prison conditions by NGOs and human rights organizations; however, in practice, the CNDH and state human rights commissions conducted the majority of prison visits, and such visits occurred during the year.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention; however, the police continued to arrest and detain citizens arbitrarily. Arbitrary arrest and detention continued to be among the most common human rights abuses. Legally, a prosecutor may hold a detainee no more than 48 hours before he must present the accused to a judge, except when the accused is caught in the act or within 72 hours of committing a crime. In 2001, the federal legislature criminalized forced disappearance, including illegal detentions; the law also prohibits sponsoring or covering up an illegal detention (*see* Section 1.b.).

The federal and state police are divided into preventive police and judicial police. The preventive police maintain order and public security in cities and towns. They do not investigate crimes and only assist prosecutors (Public Ministry) at their request. The judicial police, an investigative force, are an auxiliary to the Public Ministry and act under its authority and command. A recent academic study concluded that there were more than 350,000 police officers in the country and about 3,000 different forces at municipal, state, and federal levels.

Police corruption was a problem. Police have been involved in kidnappings, armed robbery, and extortion, as well as protection of criminals and drug traffickers. From January to July, in Mexico City alone, 140 policemen were charged for various crimes, compared with 502 in 2003. In April, the Governor of Morelos State dismissed all 552 state policemen after the arrest of two top officers for allegedly protecting drug dealers.

NGO sources reported that a great number of disappearances eventually were found to be cases of arbitrary detention by security forces (*see* Section 1.b.). Many human rights groups claimed that police or prosecutors attempted to justify arbitrary detention by securing a confession to a crime, sometimes using torture (*see* Section 1.c.). According to the Miguel Agustin Pro Juarez Human Rights Center (PRODH), incommunicado detention was a frequent practice (*see* Section 1.c.).

In February 2003, the U.N. released a 22-page report made by a U.N. Working Group on Arbitrary Detention that visited the country in 2002. The Working Group found that the lack of procedural guarantees, the existence of an inquisitorial justice system, difficulties in obtaining adequate defense, lack of resources, and sentences disproportionate to the crime all contributed to the prevalence of arbitrary detentions.

Between June 1990 and August 31, the CNDH received 1,703 complaints of arbitrary detention.

On June 23, Isidro Baldenegro and Hermenegildo Rivas, Tarahumara indigenous anti-logging activists, were released from prison after prosecutors concluded that there was no basis for the weapons and drug charges against them. In March 2003, Chihuahua State police arrested them and accused them of illegal possession of firearms. On May 26, one state judicial police (PJE) official was arrested and charged with planting marijuana and weapons during the initial arrest. Three other PJE agents implicated in the case remained at large at year's end.

The Constitution provides that the authorities must sentence an accused person within 4 months of detention if the alleged crime carries a sentence of less than 2 years, or within 1 year if the crime carries a longer sentence. In practice, judicial and police authorities frequently ignored these time limits (*see* Section 1.e.). There were previous reports that police demanded bribes to release suspects (*see* Section 1.c.). Many detainees reported that judicial officials often solicited bribes in exchange for not pressing charges (*see* Section 1.e.). Those able to pay were released from custody. Corruption in the criminal justice system persisted, although the Government continued its efforts to address it.

Bail is available in cases that carry penalties of 5 years or less. Detainees have access to family members and to counsel.

Some human rights groups have claimed that activists arrested in connection with civil disobedience activities were in fact political detainees. The Government asserted that the system fairly prosecutes those charged in sometimes-violent land invasions for common crimes, such as homicide and damage to property.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, on occasion, especially at the state level, it was influenced by government authorities. For instance, each state's executive branch can be key in selecting the president of the judicial branch. Governors nominate the presidents, who are then confirmed by the state legislatures. Corruption, inefficiency, impunity, disregard of the law, and lack of training continued to be major problems. Judicial reforms have begun to address some of these problems. Constitutional reforms, passed in 1999, were designed to streamline the administration of justice and repeal archaic laws. Human rights groups claimed that these reforms allow prosecutors to disregard defendants' allegations of violation of due process during criminal proceedings.

The federal court system consists of a Supreme Court, 91 circuit courts of appeal, 49 courts of appeal, and 185 district courts.

Based on the Napoleonic Code, the trial system consists of a series of fact-gathering hearings at which the court receives documentary evidence or testimony. However, in 2001, AI alleged that judges often were not present at hearings when defendants give testimony. Most often, the court's legal secretaries take testimony, and the judge evaluates the case based on written documents. Court officials may add notarized documents that are not authenticated into the case file, which become part of the "case." These documents then become automatically authenticated. Once admitted, they are subject to contradiction, but in practice the only way to contradict the document was to call a witness to impugn it, or produce a contrary document of "equal" value. A judge in chambers reviews the case file and then issues a final, written ruling. The record of the proceeding is not available to the general public; only the parties have access to the official file, although only by special motion.

The Constitution provides for the right of the accused to attend the hearings and challenge the evidence or testimony presented, and the Government generally respected these rights in practice. In general, court hearings were open to the public, and it was common to find not only the accused, but also relatives of the accused and journalists in the courtroom. However, human rights groups complained that many hearings took place in busy judicial offices where the public generally must stand at a distance and often cannot hear the proceedings well. In some courtrooms glass or plastic panels have been placed between the tables where the proceedings take place and the public.

On November 25, Nuevo Leon became the first state in the country to hold oral trials for crimes carrying maximum penalties of 7 years' imprisonment.

The Constitution provides for the right to an attorney at all stages of criminal proceedings; however, in practice the authorities often did not ensure adequate representation for many poor defendants. Defendants in pretrial detention did not have immediate access to an attorney to discuss privately issues arising during the hearings. Moreover, the public defender system was not adequate to meet the demand. Attorneys were not always available during the questioning of defendants; in some instances a defense attorney may attempt to represent several clients simultaneously by entering different rooms to certify formally that he was present, although he did not actually attend the full proceedings. Prosecutor salaries and benefits varied by region and agency. Federal prosecutors usually were paid better than state prosecutors. Defendants' services were housed either in the judicial or executive branch, and there were no autonomous public defender services.

In the case of indigenous defendants, many of whom did not speak Spanish, the situation was often more complicated. The law provides for translation services to be available at all stages of the criminal process; however, in practice courts did not

provide translators for indigenous defendants at all stages of criminal proceedings. Consequently defendants sometimes were unaware of the status of their cases, and prisoners were convicted without fully understanding the documents they had been required to sign.

The CNDH, through the Fourth Inspector General's office, has a program to assist incarcerated indigenous defendants. The CNDH does not have authority to intervene in judicial proceedings, but can provide guidance and make recommendations on defense of rights. CNDH has a program for the liberation of indigenous prisoners that, in conjunction with other agencies such as the PGR and SSP, reviewed cases that merit release, such as commutation of a sentence.

Judges continued to allow statements coerced through torture to be used as evidence against the accused (*see* Section 1.c.), and confessions were the primary evidence in many criminal convictions. A number of NGOs have declared that judges give greater evidentiary value to the first declaration of a defendant, thus providing prosecutors an incentive to obtain an incriminating first confession and making it difficult for defendants to disavow such declarations.

The law does not require civilian trials of soldiers involved in civilian crimes, and the military continued to handle such cases. The Constitution provides for military jurisdiction for crimes or offenses involving any violation of military discipline. In cases in which a member of the military commits a crime and is arrested by civil authorities, the military has the right to request the immediate transfer of the case to military jurisdiction. In 2002, the judicial branch reaffirmed that members of the military assigned to the PFP would be tried by military courts unless a civilian was involved. The Inter American Commission on Human Rights issued various recommendations condemning the practice of a special jurisdiction for members of the military involved in common crimes.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice. The law requires search warrants; however, the CNDH received 59 complaints of illegal searches from January through August. The law allows for electronic surveillance with a judicial order. The law prohibits electronic surveillance for electoral, civil, commercial, labor, or administrative purposes; however, there were reports of illegal surveillance during the year.

In October, newspapers published transcripts of intercepted cellular telephone conversations between Democratic Revolution Party (PRD) legislators. The authorities had not identified those responsible for the incident by year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. While the overall state of freedom of expression improved under the Fox administration, threats, libel actions, defamation suits, and harassment of journalists by politicians, local authorities, police, and narcotics trafficking organizations continued. Journalists outside the capital or large cities were the most threatened, as the majority of harassment cases originated in states outside the capital and in the northern part of the country. Two newspaper editors and a columnist were killed during the year.

The independent media were active and expressed a wide variety of views, particularly in the capital and other major urban centers. There were about 300 newspapers operating in the country of which approximately 10 were national newspapers. All were privately owned and operated. Approximately 130 foreign correspondents for international news agencies, newspapers and magazines operated in the country. Direct criticism of the Government by all types of media was common. However, while some positive developments occurred during the year, criminal defamation and libel laws, law suits to reveal journalists' sources, and a climate of impunity related to crimes against journalists limited freedom of the press.

The Federal Government tolerated and did not attempt to impede criticism of the Government; however, local officials frequently reacted to criticism and unfavorable news articles by harassing journalists and suing them under criminal libel laws. Journalists and others advocated for legislative reform of the criminal libel laws. In addition, government officials at all levels often attempted to obtain the names of journalists' confidential sources.

Broadcast media were privately held, with Televisa and TV Azteca accounting for more than 90 percent of the market. The Federal Government operated two TV stations broadcast in Mexico City and picked up by an assortment of small local stations and cable companies throughout the country. Various states minimally financed regional TV stations. Television news independence was enhanced by great-

er political pluralism, generational change in media leadership, and growing competition for advertisers and viewers.

Most radio stations throughout the country were privately owned through concessions granted by the Government. The issue of access to the airwaves and the legalization of community-based radio stations was a concern as several stations were closed during the year despite pledges by senior officials in the Fox administration that the status of each station would be reviewed so that operating licenses could eventually be granted.

Attacks on and killings of journalists continued to be the most serious problem for freedom of the press. The Mexican Network for the Protection of Journalists and Communication recorded 20 acts of aggression against journalists from January 1 to April 30 including killings, physical violence, verbal assaults, arrests, lawsuits, censorship, economic pressure, and other sophisticated administrative and bureaucratic forms of harassment. NGOs that monitor freedom of the press and the security of journalists usually received information indirectly regarding outright attacks and intimidation of journalists, which were underreported. There were no comprehensive nationwide statistics; however, on August 9, Jose Luis Soberanes, President of the CNDH, said that it had received 155 complaints of violations of journalists' human rights between 1999 and July.

In May, a representative from the Chihuahua State Attorney General's Office demanded the names of sources from nine print and television journalists in Ciudad Juarez for stories on the deaths of women in and around that city. The journalists refused and filed a complaint with the CNDH.

In June, Reporters without Borders expressed concern about recent attacks and threats against at least 15 reporters in the country. In September, more than 200 journalists sent a letter to the President demanding better security for journalists.

The area along the northern border was the most dangerous place in the country for journalists, who were targeted by drug traffickers working with corrupt law enforcement personnel in the region. On March 19, unknown persons killed Roberto Javier Mora, editorial director for the Nuevo Laredo-based daily El Manana. President Fox ordered federal authorities to coordinate with their state and local counterparts to investigate the killing. Six national and international press freedom organizations participated in a joint fact-finding mission to Nuevo Laredo to look into the death. The Committee for the Protection of Journalists (CPJ) and Reporters Without Borders believe that the killing resulted from the paper's coverage of narcotics trafficking and corruption in Nuevo Laredo. Two suspects arrested by police in March subsequently retracted their confessions after alleging that they had been tortured. In May, one of the suspects, Mario Medina Vazquez, was killed by another inmate. Although an investigation was initiated and the director of the prison fired, there were no other concrete results at year's end.

On June 22, masked gunmen shot and killed Francisco Javier Ortiz Franco, a lawyer and co-editor of the Tijuana-based weekly newspaper Zeta, in Tijuana. By year's end, no arrests had been made; however, on August 18, prosecutors stated that they believed that the killing was in retaliation for an article that revealed details and identities behind a scheme to obtain fake police credentials for members of the Arellano Felix drug cartel.

On August 31, unknown persons tortured and killed Francisco Arratia Saldierna, a columnist from the border State of Tamaulipas. Within hours of the killing, the secretary general of Tamaulipas characterized Saldierna's death as an "isolated incident" that soon would be solved; however, an investigation was ongoing at year's end.

The widespread lack of investigation into crimes against journalists fostered a climate of impunity that discouraged investigation, provoked self-censorship, and jeopardized the physical safety of journalists and their families.

On May 13, up to 20 local policemen detained, beat, and robbed Manuel de la Cruz, EFE's correspondent in Tuxtla Gutierrez, Chiapas. De la Cruz filed criminal complaints with the Chiapas attorney general's office, the state human rights commission, and local police.

In August, Jose Martinez Mendoza author of a book that revealed inappropriate links between government bodies and a foundation headed by First Lady Martha Sahagun, received death threats and said that he had been under surveillance after publishing his book.

AI reported that local authorities often used criminal charges on a state level to deter investigations and, during the year, issued legal summons to several journalists to reveal their sources.

Attacks against the confidentiality of journalists' sources continued to undermine investigative reporting during the year. In August, Jose Luis Soberanes, president

of the CNDH, warned against forcing journalists to reveal confidential sources of information.

International press organizations claimed that the country's criminal defamation and libel laws violate the freedom of expression. The IAPA was extremely concerned about changes made to the Penal Codes in a number of states that provide for stiffer jail sentences in the case of convicted journalists. In February, the Chiapas State legislature raised the penalty for those found guilty of criminal defamation and libel from 3 to 9 years' imprisonment and fines from the equivalent of 100 to 1,000 days' pay, the highest in the country.

The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Groups that wish to meet in public areas must inform local police authorities in advance. Organized, peaceful demonstrations occurred frequently throughout the country.

There were reports police tortured protesters detained in May at the Third Summit of Latin America, the Caribbean, and the European Union in Guadalajara (*see* Section 1.c.).

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, there were some restrictions at the local level, particularly in the South. A generally amicable relationship among the various religions in society contributed to religious freedom; however, in some southern areas of the country, political, cultural, and religious tensions continued to limit the free practice of religion within some communities. Most such incidents occurred in the State of Chiapas.

Religious associations must register with the Under Secretariat of Religious Affairs of the Federal Secretariat of Government (SSAR) to operate legally. Although the Government may reject applications because of incomplete documentation, the registration process was routine. An estimated 6,247 religious associations were registered.

To be registered as a religious association, a group must articulate its fundamental doctrines and religious beliefs, must not be organized primarily to make money, and must not promote acts physically harmful or dangerous to its members. Religious groups must be registered to apply for official building permits, to receive tax exemptions, and to hold religious meetings outside of their places of worship.

To visit the country for religious purposes, foreign religious workers must secure government permission. The Federal Government limits the number of visas each religious group is allowed. However, the Government has granted 49,466 such visas since 1995.

There were incidents of violence between religious groups, principally in Chiapas, during the year. The situation in Chiapas was a result of a complex mix of economic, ethnic, political, and religious tensions. There was a history of religious intolerance in, and expulsions from, certain indigenous communities whose residents follow syncretistic (Catholic/Mayan) religious practices and view other religious practices as a threat to indigenous culture. In parts of Chiapas, local leaders of indigenous communities sometimes regarded evangelical groups as unwelcome outside influences and potential economic and political threats. As a result, these leaders sometimes acquiesced in, or actually ordered, the harassment or expulsion of individuals belonging primarily, but not exclusively, to Protestant evangelical groups. In many cases, these expulsions involved the burning of homes and crops, closing down of churches, beatings, and, occasionally, killings.

The most common incidents of intolerance arose in connection with traditional community celebrations. Protestant evangelicals often resisted making financial donations demanded by community norms that go partly to local celebrations of Catholic religious holidays and resist participating in festivals involving alcohol. While religious differences were often a prominent feature of such incidents, ethnic differences, land disputes, and struggles over local political and economic power were most often the basic cause of the problems.

On June 22, a group that included local officials drove seven Protestant families from their homes in Las Margaritas Township because they asked local officials to ensure respect for their freedom of worship. The families joined approximately 300 to 400 Tojolabal Christians expelled from their farms in Las Margaritas Township. The Nuevo Matzan village council ordered 15 evangelical families to abandon their homes or face severe consequences. By year's end, state government officials in Chiapas had taken no action because they claimed that the families left voluntarily.

In Chiapas, traditionalist local leaders denied approximately 150 children access to the local public schools in 6 indigenous communities every year since 1994 be-

cause they were evangelicals. They received instruction in separate classrooms under a program that began in 2001 to provide education for children who were marginalized due to their religious affiliation.

According to the CNDH, from June 1991 to March 2003, it received 1,110 complaints of discrimination on religious grounds, especially from members of the Jehovah's Witnesses, for their refusal to participate in national anthem and flag ceremonies in schools.

There were numerous reports of Jehovah's Witnesses being fined, denied building extensions, evicted from their homes, and imprisoned for not participating in Catholic feast days, not contributing funds for construction of Catholic churches, and not contributing to Catholic religious festivals.

In Uripitio, Michoacan State Alejandro Perez, a Jehovah's Witness, was denied access to drinking water because he did not contribute $600 (6,000 pesos) for the construction of a Catholic church. By year's end, the local authorities had stopped pressuring Perez.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The law does not permit forced exile, and it was not practiced.

In June, the ICRC noted that the emergency situation no longer existed among the internally displaced persons in Chiapas and terminated its humanitarian activities there.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. During the year, the Government participated in a range of UNHCR training programs. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

Corrupt police sometimes violated the rights of illegal immigrants. There also were credible reports that police, immigration, and customs officials were involved in the trafficking of illegal migrants. Migrants who transited a halfway house in southern Chiapas complained to the director about the double dangers of extortion by the authorities and robbery and killings by an organized gang called "Maras Salvatruchas" who prey on migrants coming from the south. There was an increase in the number of such gangs, as well as in the level of violence. Illegal immigrants rarely filed charges in cases of crimes committed against them because the authorities generally deported such persons who came to their attention. Many pending cases brought by illegal immigrants were subject to dismissal because the complainant was no longer present in the country.

In February 2003, CNDH president Jose Luis Soberanes, in his annual report to Congress, recognized the government's lack of protection for migrants. The CNDH found problems at all levels of government, including corruption, impunity, and the complicity of immigration officials and local, state, and federal officials.

In March 2003, the U.N. Special Rapporteur on Human Rights of Migrants, Gabriela Rodriguez Pizarro, reported that she found apparent complicity among traffickers, delinquents who prey on migrants, and the authorities who extort migrants. She criticized the lack of facilities at immigration detention centers in the south of the country, including the use of local jails. She also noted the precarious medical attention at migrant stations and the humiliating treatment meted out to migrants by officials.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Presidents are elected every 6 years and cannot be reelected. While elections were open and generally fair, accusations of abuses continued to occur, most often in state and local elections. In 2000, voters elected President Vicente Fox, a member of the National Action Party and candidate of the Alliance for Change Coalition, with 43.3 percent of the vote. In July

2003, federal elections were held to elect members of Congress. Observers, both international and domestic, judged the elections to be generally free and fair.

In August 2003, Zacatecas became the first state to allow migrants to run for state office, including citizens who have never lived in, and were not born in, the country.

Political parties, opposition groups, and independent associations functioned freely without government interference or restriction. The Federal Electoral Code recognizes national political parties as well as political associations. Political associations can participate in elections through an agreement with a political party; however, they cannot use their names or symbols during the election campaigns. Political parties do not have legal status until they receive their official designation from the Federal Electoral Institute (IFE). The IFE has 6 political parties registered and 36 political groups. Parties must receive at least 2 percent of the vote in national elections to maintain their registration. The IFE also provided support to state electoral institutes in running state and local elections and was instrumental in overhauling electoral district boundaries to reflect demographic shifts.

There were controversies over state and municipal elections.

During the year, 10 states held elections for governor along with municipal elections. There were legal challenges to the conduct of the gubernatorial elections in Oaxaca and Veracruz and the mayoral election in Tijuana; however, the challenges were all denied. Consequently, on December 1, the three victors assumed their respective positions.

Corruption was a problem at both the federal and state levels (*see* Sections 1.a. through 1.e., 2.a., 2.d., 5, and 6). The CNDH reported in May that Guerrero, Morelos, the Federal District, and Chiapas were the states that receive the most corruption complaints.

Two years after the passage of the Law for Transparency and Access to Information, transparency in public administration, both at the federal and local levels had not been achieved. The implementation of procedures to facilitate access to public information and the lack of clarity in the process by which state officials make information available to public opinion remained areas of concern. However, on March 30, the Supreme Court of Justice and Federal Judiciary Council unanimously ruled that the general public can review court rulings and settlements made during the litigation process and ordered the placement of court decisions on the Internet. Many observers noted that the federal law allows individual states wide liberty in interpretation and development of procedures, thereby leading to a lack of uniformity. Fifteen states had Access to Information Laws but only 30 percent of these can actually provide access to information in a systematic manner.

There were 28 women in the 128-seat Senate and 117 women in the 500-seat lower house. There was one female justice on the Supreme Court. The State of Zacatecas elected a female governor. There was one female cabinet member (Director of Social Development) and two women in the extended cabinet (the Director of the National Women's Institute and the Director of the Institute for Indigenous Affairs).

Many state electoral codes provide that no more than 70 to 80 percent of candidates can be of the same gender. All political parties continued their efforts to increase the number of women who run for elected office through formal and informal means. Some utilized quotas requiring that a certain percentage of candidates on a party list are female. Women candidates often led the ticket in districts where their parties had little chance of winning. According to statistics from 2002, the PRD's membership was 48 percent female, its leadership was 27 percent female, 26 percent of its representatives and 12 percent of its senators were female, and it had a female party president. The PAN utilized more informal methods to increase female registration. An estimated 24 percent of its leadership was female, and close to 17 percent of representatives and 13 percent of its senators were female. PRI party rules mandate that 30 percent of its federal candidates be women. An estimated 24 percent of the party leadership, including its Secretary General, 16 percent of its representatives, and 18 percent of its senators were female.

There were no statistics available regarding minority participation in the Government.

The Constitution provides for the right of indigenous people to elect representatives to local office according to "usages and customs," rather than federal and state electoral law. Only the States of Oaxaca and Quintana Roo have enacted implementing legislation to effect such local elections. Traditional customs vary from village to village. In some villages, women do not have the right to vote or to hold office. In others they can vote but not hold office.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating allegations of human rights abuses and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. According to the Secretariat of Government's Directorate of Liaison with Social and Civil Organizations, in 2002 there were 5,339 NGOs active in the country, which played an important and vocal role in the promotion of civil society. According to the latest statistics available from the Secretariat of Government's Directorate of Liaison with Social and Civil Organizations, there were 979 human rights NGOs in the country. Government officials have met with NGOs in an effort to become more cooperative and responsive to NGO views.

In March 2003, a decree creating a Commission for Government Policy on Human Rights was published in the Federal Register. The Commission convened every 3 months, was responsible for designing a government human rights policy, coordinating actions, and creating mechanisms for the implementation of recommendations handed down by the CNDH and other international human rights organizations with which the Government has obligations.

Reports of harassment, attacks, and detentions of human rights workers diminished; however, they continued to occur.

On January 4, AI reported that the president of the Center for Border Studies and Promotion of Human Rights (CEFPRODHAC), Arturo Solis, received death threats after calling on authorities to fully investigate the abduction and killing of Jose Antonio Cervantes Espleta in Reynosa, State of Tamaulipas. Also in January, General Jose Francisco Gallardo reported receiving a threatening telephone call after he had criticized the appointment of an army general to an anti-terrorist unit with the PGR. Gallardo also reported that he had observed unknown vehicles monitoring his movements

In August, a Mexico City judge ruled against the injunction (amparo) asked for by the family of human rights activist Digna Ochoa and upheld the July 2003 ruling of the Mexico City attorney general's office (PGJDF) that her death was a suicide.

On July 21, the Mexico City human rights commission (CDHDF) issued a report that found irregularities and flaws in the police investigation of the case. For example, written descriptions of the scene of the crime didn't match photographs and the description of the injuries Ochoa suffered was incomplete. The CDHDF concluded that the irregularities did not "generate certainty."

In August 2003, an unknown assailant killed human rights defender Grisdelda Teresa Tirado Evangelio near her home in Puebla. Tirado, a teacher and an IFE council member in Puebla, was one of the founders of an indigenous rights association and was involved in litigation of various agrarian disputes in the indigenous communities. Police were investigating to determine if Tirado was targeted for her human rights activity or the victim of a crime. On February 15, Alfonso Garcia Reyes and Amelia Cruz Sanchez were arrested and detained as the probable suspects in the crime according to the Puebla Human Rights Commission.

The CNDH is the country's autonomous human rights ombudsman, whose president is chosen by the Senate for a 5-year term. In October, the Senate ratified Jose Soberanes for a new 5-year term. Each state also has a state human rights office (CEDH). In theory, the CEDH were also autonomous; however, each CEDH president was chosen by the state governor. In August, AI reported that the president of the Chiapas State human rights commission, Pedro Raul Lopez, had been suspended by the state congress over allegations that he had obstructed investigation into the commission's finances. AI and other NGOs alleged that Lopez was suspended because of his work on behalf of human rights. State authorities contended that he was fired due to financial irregularities. The CNDH issues an annual report to Congress on the state of human rights in the country. The CNDH made 62 recommendations as of September. The recommendations were based on investigations generated by complaints received. During the year, the CNDH promoted legislation to make its recommendations binding on the recipient agency.

SEDENA, in coordination with the CNDH and state human rights commissions, provides its officers with a 4-month human rights course to teach officers to be human rights trainers. SEDENA reported it had graduated 250 officers from this course. These officers were responsible for training at the different unit levels within the Army and Air Force. The CNDH reported that between March 2002 and July 2003 it had given 61 seminars on human rights to 15,724 members of the Armed Forces, including 1,200 flag officers. In addition, 12 military instructors were trained to teach human rights courses.

In April 2003, the Navy adopted a "Manual on Human Rights for the Mexican Navy," which complements the Disciplinary Law of the Mexican Navy.

Both the Senate and the Chamber of Deputies have committees that monitor human rights and occasionally draft legislation concerning human rights. They played a significant role with respect to votes in Congress.

Section 5. Discrimination, Societal Abuse, and Trafficking in Persons

The Constitution provides that men and women are equal before the law, and that education should avoid "privileges of race, religion, groups, sexes, or individual"; the Government continued to make progress enforcing these provisions. In March 2003, a Secretariat of Foreign Relations (SRE) study revealed that 90 percent of the population suffered some type of discrimination. Women, indigenous groups, and persons with disabilities were the most affected. Complaints of discrimination against a public official may be filed with the CNDH. If a complaint alleges discrimination on the part of a private party, then it must be filed with the judicial system.

Women.—The most pervasive violations of women's rights involved domestic and sexual violence, which were widespread and vastly underreported. The law prohibits domestic violence and provides for fines equal to 30 to 180 days' pay and the detention of violators for up to 36 hours. According to a survey by the National Statistical Agency (INEGI), 47 percent of women age 15 and up have suffered at least one incident of physical, emotional, or sexual aggression.

The DIF for the State of Mexico (DIFEM) reported that between January and September, it received 1,157 complaints of intra-family violence involving 2,075 victims, the majority of them women and children under age 10. According to the PGJDF, 40 women died as a result of intra-family violence during 2003–04. During the year, 11,396 women called the hotline "Vida sin Violencia" (Life Without Violence) to report some form of violence against them.

In 2001, the Fox administration created the National Women's Institute, an autonomous organization that promoted public policies favoring non-discrimination and gender equity. It also publicized violations of women's human rights to promote debate and change. During the year, the Institute made recommendations to the Secretary of Public Security (SSP) to enhance protection of women's human rights in prison. In addition, it ran a mock court program for law students and trained judges to help them understand the country's obligations under international law.

The law prohibits rape, including spousal rape, and applies to both married and common-law couples. Under certain circumstances limited to the statutory rape of a minor between the ages of 12 and 18, the Criminal Code allows a judge to dismiss charges if the persons involved voluntarily marry. In practice, this provision rarely was invoked.

The law does not forbid prostitution. However, pimping is illegal and it is also illegal for persons under the age of 18 to work in prostitution. Sexual tourism was a problem, and popular tourist destinations, such as Acapulco, Cancun, and Puerto Vallarta reported incidents of sexual exploitation of minors.

In August 2003, AI and the Chihuahua Women's Institute reported that during the previous 10 years, over 300 women had been killed, of whom approximately 100 had been sexually assaulted, in Ciudad Juarez and other parts of Chihuahua State. Subsequently, in October 2003, President Fox named Guadalupe Morfin Otero as the head of the new federal Commission to Prevent and Eradicate Violence Against Women in Ciudad Juarez. With a limited budget, Morfin investigated the issues surrounding the deaths and disappearances and requested that the authorities apply Istanbul Protocol procedures in the cases of four persons charged with having killed women (*see* Section 1.c.). In January, President Fox appointed Maria Lopez Urbina as federal Special Prosecutor for Women's Homicides in Ciudad Juarez as part of the PGR's Office of Human Rights. During the year, she reviewed approximately 50 cases and in June, she reported that her investigation had not turned up any evidence of a serial killer. The review revealed that 81 state and local officials had lost evidence, contaminated crime scenes, and had been slow to act to protect endangered women. Mario Alvarez, deputy attorney general, stated that Chihuahua State prosecutors were weighing criminal abuse of power charges against those officials. By year's end, Lopez Urbina had cited 130 Chihuahua public servants for negligence.

During the year, the bodies of 16 more dead women were found in Ciudad Juarez. In March, an AI report reviewed progress made during 2003 and recommended that the authorities take an integrated approach to prevent and investigate all forms of gender-based violence in Chihuahua State, investigate the allegations of torture made by suspects detained and interrogated by state judicial police, and respect the rights of the victims, their families, and human rights organizations.

In April, a team of U.N. criminal justice experts returned to Ciudad Juarez to review progress made on September 2003recommendations. They found that no attempts had been made to implement the recommendations, except for some minimal training provided to state police. During their second visit, the U.N. experts urged the state to reopen all cases in which the accused perpetrators had alleged torture at the hands of state authorities.

In April, several members of the lower house of Congress formed a special commission to follow developments. Marcela Lagarde, head of the commission and a legislator representing Mexico City, said that the commission would work for legal action against the former and current governors of Chihuahua and various officials from both administrations, due to the severe irregularities throughout the course of the state's investigations of the killings.

In June, Special Prosecutor Lopez Urbina named 81 current and former Chihuahua State officials for negligence in investigating the cases of the disappeared and dead women. In October, she named 49 more officials. Chihuahua State authorities released the names of 54 of these officials and were responsible for any prosecution of them. In November, Chihuahua State attorney general, Patricia Gonzalez Rodriguez, suspended some of the staff in the state attorney general's office (PGJE) while investigations were conducted into how they handled the investigations of women's murders in Ciudad Juarez. At year's end, as a result of Lopez Urbina's recommendations, Gonzalez asked a judge for arrest warrants against three current and two former state officials. She also requested administrative sanctions be taken against 15 more state officials.

In August, the Alameda County, California, sheriff's office released its findings from DNA tests performed in May on the remains and family members of several dead or disappeared women from Chihuahua. The exams revealed that the remains presented by the state as those of victim Neyra Azucena Cervantes were actually those of a male. The victim's mother subsequently stated that she planned to pursue the matter with Chihuahua State authorities.

The United Security Program, launched in Ciudad Juarez in 2003 to curb crime and protect women, was unsuccessful. Despite the presence of over 700 federal officers, the overall crime rate increased by more than 12 percent, and most officers had left the city by year's end.

Trafficking in women for the purpose of sexual exploitation was a problem (*see* Section 5, Trafficking.).

The Federal Criminal Code includes penalties for sexual harassment, but victims must press charges. Many female victims were reluctant to come forward, and cases were difficult to prove. Reports of sexual harassment in the workplace were widespread. Statistics 2001 led the CDHDF to estimate that at least 80 percent of the women who work in Mexico City have experienced sexual harassment.

Women also suffered harassment and discrimination from public officials. In March, the CNDH reported that between February 2000 and February, it received 3,528 complaints from women who alleged offenses by federal officials. The leading complaint was abuse of authority, followed by denial of or inadequate provision of medical services, denial of or inadequate provision of electrical services, threats, and denial of the right to file a complaint. The main entity receiving complaints was the Institute for Social Security (IMSS), which usually received complaints for negligence in providing medical care to women.

Although the Constitution provides for equality between the sexes, neither the authorities nor society in general respected this principle in practice. The legal treatment of women's rights was uneven. Women have the right to own property in their own names and to file for separation and divorce. However, in some states a woman may not bring suit to establish paternity and thereby obtain child support unless the child was a product of rape or cohabitation, the child resided with the father, or there was written proof of paternity.

The Constitution and labor laws provide that women shall have the same rights and obligations as men, and that "equal pay shall be given for equal work performed in equal jobs, hours of work, and conditions of efficiency." However, women in the workforce generally were paid less than their male counterparts and were concentrated in lower-paying occupations.

Labor law provides extensive maternity protection, including 6 weeks' leave before and after childbirth and time off for breastfeeding in adequate and hygienic surroundings provided by the employer. Employers are required to provide a pregnant woman with full pay, are prohibited from dismissing her, and must remove her from heavy or dangerous work or exposure to toxic substances. To avoid these expensive requirements, some employers, including some in the "maquila" industry, reportedly violated these provisions by requiring pregnancy tests in preemployment physicals, by regular examinations and inquiries into women's reproductive status (including

additional pregnancy tests), by exposing pregnant women to difficult or hazardous conditions to make them quit, or by dismissing them. The Secretariat of Labor made safety and hygiene inspections in private factories and public institutions to protect the labor rights of workers (*see* Section 6.e.).

In January, the NGO Catholic Agency for Overseas Development alleged that in Guadalajara, electronic subcontractors recruited poorly educated, young women and subjected them to degrading interviews about their sexual histories and invasive physical examinations that include internal exams and pregnancy tests.

In August, Ninett Torres Villareal had her scholarship from the Mexican Writers' Center withdrawn when the director of the Center discovered she was 6-months pregnant. The Gender Equity Commission in the Mexican Congress offered to intervene, and the scholarship was reinstated in September.

Children.—The Government maintained several programs to promote child welfare that support maternal and infant health, provide stipends for educating poor children, subsidize food, and provide social workers; however, problems in children's health and education remained. Nine years of education are compulsory, and parents are legally liable for their children's attendance; however, SEP and the Sierra Neighborhood Foundation maintained that only approximately 30 percent of youths between 15 and 20 years of age attend school. According to a 1998 academic study, in most areas of the country, girls and boys attended school at similar rates. In marginalized rural areas, national statistical agencies reported that 60 percent of girls attended primary school compared with 70 percent of boys. In July, press reports indicated that incompetent teachers are protected by the teacher's union from discipline. The press reported the case of a teacher who continued to hold his position while never showing up at his class and alleged that teacher's positions are "sold" through the union rather than competed openly. Primary education is compulsory, free, and universal. A 2000 study showed that 19 percent of students completed grade school and 19 percent completed the 9th grade.

In July 2003, the CNDH reported that it had detected serious violations to basic rights in the majority of the 54 juvenile reformatories in the country (*see* Section 1.c.).

The Government provided equal access to medical care for boys and girls.

Trafficking in children for the purpose of sexual exploitation was a problem (*see* Section 5, Trafficking).

In 2003, DIF received 1,372 complaints of child abuse.

There were an estimated 1,200 street children in Jalisco State, half of whom were believed to be victims of sexual abuse. The children were concentrated largely in Guadalajara, Puerto Vallarta, and San Juan de los Lagos, and in areas with a heavy foreign tourist presence.

Child labor was a problem, particularly among migrant farming families (*see* Section 6.d.).

Trafficking in Persons.—Various laws prohibit aspects of trafficking in persons; however, trafficking was a serious problem, and there were credible reports that police, immigration, and customs officials were involved in trafficking (*see* Section 2.d.). In February, press reports charged that immigration officials in Chetumal, Quintana Roo State were helping a network to traffic persons into the southern part of the country. There were reports that persons were trafficked to, from, and within the country.

Trafficking in persons is forbidden under the General Population Law, immigration laws, the Federal Organized Crime law, and federal and state penal codes, all of which were used to prosecute traffickers of undocumented migrants, women, and children.

Child prostitution and pornography are felonies under the law; however, sexual exploitation was a problem. Under a 2000 law, anyone convicted of corrupting a minor under 16 years of age by introducing the minor to pornography, prostitution, or sexual exploitation can be sentenced to 5 to 10 years' imprisonment. If convicted, parents or guardians automatically lose custody of their children. Accomplices to sexual abuse or exploitation may be imprisoned for 6 to 10 years. When physical or psychological violence was used to abuse sexually or profit from children's exploitation, the minimum and maximum penalties for these crimes are increased by up to one-half.

The Government had 12 cases in progress against trafficking organizations in various states. As of September, the authorities had detained 664 persons for trafficking-related offenses. Through August, the Government reported the rescue of 2,747 victims.

On February 26, the deputy chief of criminal investigations at the Chihuahua State judicial police was arrested and accused of raping a minor and of running a

prostitution ring. Five minors formally complained against him, but the judge released him on bond several days later for lack of evidence.

On March 19, seven police officers, two former police officers, and seven INM officials were arrested in Chihuahua State in connection with a large alien smuggling case. The police officers were released for lack of evidence, but the INM officials remain in custody and their court case was pending. It was unclear whether they had been involved in alien smuggling or trafficking because alien smugglers were often traffickers of persons, drugs, and arms.

The Government has a Plan of Action to Prevent, Attend, and Eradicate the Commercial Sexual Exploitation of Minors. The program, which was administered through the DIF, supported by numerous executive and legislative branch entities, had begun specifics programs in various states and had supervised 64 operations during which 115 girls and 7 boys were rescued.

The National Migration Institute (INM), the PGR, the DIF, the Center for Intelligence and National Security (CISEN), and the PFP were the key federal agencies devoted to combating trafficking, protecting victims, and prosecuting traffickers. In September, they launched an assessment of trafficking in the state of Baja California Norte and the city of Tapachula being conducted by the International Office on Migration (IOM). The project began in September and will be concluded in September 2005. The project, conducted jointly with INM (National Migration Institute), OAS, INMUJERES, and the Interamerican Commission on Women (ICW), includes training for immigration agents on both borders.

The Government continued to cooperate with other countries. In August 2003, immigration officials from Nicaragua, El Salvador, Honduras, Guatemala, Ecuador, Colombia, and the United States met to develop strategies against trafficking and smuggling in persons. In March, the country signed an agreement with Guatemala for the protection of victims of trafficking on the southern border.

As part of its Memorandum of Understanding with Guatemala, the INM began a program in which residency permits were issued to trafficking victims who agree to participate in prosecutions against traffickers.

A 2003 book entitled "Infancy as Sexual Merchandise" estimated that there were 16–20,000 children involved in the sex trade.

The country was a point of origin, transit, overwhelmingly from Central America, and destination for trafficked individuals. To a much lesser extent, persons from Brazil, Ecuador, China, Taiwan, India, and some countries in Eastern Europe transited the country. The poor and less educated were more at risk for trafficking.

In late 2003 and early in the year, press reports indicated that women were being trafficked from Cancun to the United States for sexual exploitation.

In February, law enforcement dismantled an organized crime network that trafficked women and forced them into prostitution in New York. On February 10, a judge in Tlaxcala issued warrants for the arrest of 16 suspects in the investigation. Later in February, police arrested six members of the network in several cities. At year's end, parallel prosecutions were ongoing in both the United States and Mexico.

Several NGOs, including the Bilateral Border Safety Coalition, the IOM, Casa Alianza, The Coalition Against Trafficking in Women, Sin Fronteras, and Las Mercedes assisted trafficking victims with education and prevention programs.

The Government supported general prevention campaigns for children and women and administered assistance programs for children repatriated to the country. The legal framework exists to protect the victims of trafficking and provide social services to these victims. However, in practice illegal immigrants usually were deported.

Persons With Disabilities.—Discrimination against persons with disabilities in employment, education, access to health care, and the provision of other services continued. A total of 27 of the 31 states have laws protecting persons with disabilities. Local law requires access for persons with disabilities to public facilities in Mexico City, but not elsewhere in the country. In practice, most public buildings and facilities in Mexico City did not comply with the law. The Federal District also mandated access for children with physical disabilities to all public and private schools.

The President's Office for the Promotion and Social Integration of Persons with Disabilities estimated that there were 267,000 new cases a year of persons with disabilities owing to accidents, births, or diseases. According to INEGI, there were 988 registered institutions of or for persons with disabilities. In Mexico City, 166 NGOs addressed problems affecting persons with physical disabilities.

In June 2003, President Fox signed a new Anti-Discrimination Law passed by both houses of Congress that provides for access to health services, education, culture, transportation, and employment for persons with disabilities. NGOs claimed the law had little effect since many persons were not aware of its existence.

The DIF had 62 Rehabilitation Centers in 31 states and the Federal District and more than 600 Basic Rehabilitation Units throughout the country.

During the July 2003 congressional elections, the Federal District Electoral Institute (IEDF) provided ballots, ballot boxes, and a special ballot holder and marker for the vision and motor skill impaired voters. The same provisions were made for persons with disabilities in the various state elections that occurred during the year.

Indigenous People.—The indigenous population has been long subject to discrimination, repression, and marginalization.

In June, President Fox created the Consultative Council of Indigenous People, which was to meet four times a year to help direct governmental action on indigenous matters.

The National Commission for the Development of Indigenous Peoples (NCDIP) estimated the indigenous population at 10.25 million; however, there were unofficial estimates of 12.7 million. Estimates from other organizations varied from 8 to 10 million. The NCDIP listed: 6 million native indigenous dialect speakers over 5 years of age and 4.2 million individuals who identified themselves as indigenous, but did not speak an indigenous dialect. Indigenous people were located principally in the central and southern regions and represented 37 percent of the population in the States of Oaxaca and Yucatan. However, these groups remained largely outside the political and economic mainstream, as a result of longstanding patterns of economic and social development. In many cases, their ability to participate in decisions affecting their lands, cultural traditions, and allocation of natural resources was negligible.

According to a study by the Mexican Health Foundation, 81 percent of the indigenous population lived in poverty.

According to the NCDIP, 66.5 percent of indigenous children less than 4 years of age resided in areas where the infant mortality rate was very high.

Lack of resources and the fragmentation of indigenous communities continued to make enforcement of the 2001 constitutional reforms, which provided for additional rights and autonomy, extremely difficult.

Indigenous communities continued to insist that they want to have the power to decide which commercial firms operate in their communities and which ones should close; however, only the Southern State of Oaxaca had a state Law of Indigenous Participation.

Media reports indicated a state of heightened tension in Chiapas due to paramilitary activity. The state government, since taking power in 2002, has arrested 25 paramilitary leaders.

There were numerous allegations of the use of excessive force and the violation of international humanitarian law. During much of the year, the Government maintained troops in selected areas of Chiapas, and in Guerrero. Incidents of conflict in Chiapas between security forces and Zaptista Army of National Liberation sympathizers, and in Guerrero between the army and the Popular Revolutionary Army and the Insurgent's Revolutionary Army led to accusations of the use of excessive force; however, the confused circumstances of these clashes made those allegations difficult to substantiate.

AI reported that on January 14, police used excessive force to evict indigenous people occupying the town hall in Tlalnepantla, Morelos. Police shot and killed Gregorio Sanchez and injured 12 others.

Sporadic outbursts of politically motivated and land dispute violence continued to occur in the Southern States of Chiapas, Guerrero, and Oaxaca. Historic land disputes were also a cause of tension in the indigenous regions, especially in Oaxaca, Guerrero, and Chiapas (*see* Section 1.a.).

In April, the BBC reported conflict in Chiapas between supporters of the Zapatistas and other Indigenous groups, occasioned by the refusal of the rebel supporters who lost their water service to cooperate in maintaining and paying for the area's water system. There were reports that the EZLN's campaign to extend "autonomous townships" had caused resentment from neighboring indigenous groups. In April, members of a dozen indigenous settlements reportedly wrote to federal authorities to ask that the Zapatistas leave them alone.

On September 20, unknown assailants killed Tomas Sosimo Santos, a member of the indigenous opposition in La Angostura, Guerrero. An investigation into his death was ongoing at year's end.

Judges often failed to sentence indigenous detainees within legally mandated periods (*see* Section 1.e.). The NDCIP tried to provide translators and bail assistance to indigenous defendants (*see* Section 1.d.).

In November, AI reported six examples of sexual abuse of indigenous women to indict the country's authorities for failure to provide proper forensic services to in-

digenous women and of failing to prosecute soldiers accused of raping indigenous women.

Indigenous people did not live on autonomous reservations, although some indigenous communities exercised considerable local control over economic, political, and social issues. In the State of Oaxaca, for example, 70 percent of the 570 municipalities were governed according to the indigenous regime of usages and customs, which may not follow democratic norms such as the secret ballot, universal suffrage, and political affiliation (*see* Section 3). These communities applied traditional practices to resolve disputes and to choose local officials. Quintana Roo had a similar usages and customs law. While the laws allow communities in these states to elect officials according to their traditions, these usages and customs tended to exclude women from the political process. Usages and customs also often infringed on other rights of women.

The law provides some protection for indigenous people, and the Government provided support for indigenous communities through social and economic assistance programs, legal provisions, and social welfare programs. Budget constraints prevented these measures from meeting the needs of all indigenous people.

The General Education Act provides that educational instruction shall be conducted in the national language, Spanish, without prejudice to the protection and promotion of indigenous languages. However, many indigenous persons spoke only their native languages, and indigenous children faced discrimination for speaking their native tongue. In August, HRW reported that indigenous communities in Guerrero State lacked teachers for primary schools.

The Government generally professed respect for indigenous people's desire to retain elements of their traditional culture in practice. The CNDH's Office of the Fourth Inspector General reviewed and investigated violations of indigenous rights. More than 130 NGOs were dedicated to the promotion and protection of indigenous rights.

After a June 2003 visit to several indigenous communities, the U.N. Special Rapporteur on the Situation of Human Rights and Basic Liberties of Indigenous Peoples, Rodolfo Stavenhagen, called for constitutional reform to resolve the situation in Chiapas and the crisis of persons displaced by conflict.

At year's end, four municipal officers, Sergio Cabrera Carrasco, Tomas Gutierrez Lopez, Jesus Sanchez Gomez, and Arturo Santiago Lopez from Union Hidalgo, Oaxaca State remained detained pending disposition of charges for homicide and abuse of authority.

Other Societal Abuses.—On September 23, President Fox called on the National Multi-Sectoral Council on HIV/AIDS (CONASIDA), and the secretaries of labor, education, and defense to conduct a rapid assessment of the prevalence of discrimination against HIV positive persons in the workplace, in the armed forces, and even among schoolchildren and to present a plan for corrective action.

In August, CNDH issued a recommendation to the Secretariat of the Navy to have its physicians refrain from administering tests for detection of HIV without the consent of the patient. CNDH found that the Navy violated an employee's right to privacy when it performed the test without consent. Members of Congress alleged that the military routinely discharged HIV-positive members.

According to the CNDH, the states that receive the most complaints from people suffering from HIV were the Federal District, Nuevo Leon, Jalisco, and Mexico. The most often-cited complaint was the denial of medical services to HIV patients.

In May, Oscar del Real Lopez died in the Los Mochis prison in Sinaloa. According to the state's commission on human rights, he was denied medical attention because he was infected with the HIV virus.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Federal Labor Law (LFT) provide workers with the right to form and join trade unions of their choice and workers exercised this right in practice. Approximately 15 percent of the total work force was unionized, mostly in the formal sector, where approximately one-half the labor force was employed.

In June, 51 employees of the Mexican Petroleum Company (PEMEX), the state oil monopoly, were fired for trying to form their own union. The Inter-American Court on Human Rights and the International Labor Organization were investigating these cases at year's end.

b. The Right to Organize and Bargain Collectively.—The Constitution and the LFT provide for the right to organize and bargain collectively. Interest by a few employees, or a union strike notice, compels an employer either to recognize a union and negotiate with it or to ask the federal or state labor board to hold a union rec-

ognition election. LFT pro-union provisions led some employers to seek out or create "white" or company unions as an alternative to mainstream national or local unions. Representation elections were traditionally open, not secret. Traditionally, management and union officials were present with the presiding labor board official when workers openly declare their votes, one by one. Such open recounts, which in the past have resulted in the intimidation of pro-union workers and in reprisals against them, were prevailing practice but were not required by law or regulation. Secret ballots were held when all parties agree.

The law provides for the right to strike, and workers exercised this right in practice. Although few strikes actually occur, informal stoppages were fairly common, but uncounted in statistics, and seldom last long enough to be recognized or ruled out of order. The law permits public sector strikes, but formal public sector strikes were rare. Informal ones were more frequent. There were 23 strikes during the year. According to the Secretariat of Labor and Social Welfare, in the 4 years that the Fox administration has been in office there were 147 strikes nationwide.

Unionization and wage levels in the in-bond export sector varied by area and sophistication of the manufacturing process. The National Council of the In-Bond Export Manufacturing Industry claimed that its members employed approximately 1.14 million persons as of November. According to INEGI, there were an average of 2,809 active maquiladora plants in the country as of September, a dramatic drop from the 3,901 reported in 2003. By December, the maquiladora sector appeared to be experiencing a rebound. Compensation packages in the maquiladora sector still were lower than in the traditional manufacturing sector. There was no evidence that the Government opposed unionization of the plants, although the maquiladora sector tends to be under state jurisdiction. Protection contracts, to which the workforce was not privy, sometimes were used in the maquila sector and elsewhere to discourage the development of authentic unions. These contracts were collective bargaining agreements negotiated and signed by management and a representative of a so-called labor organization, sometimes even prior to the hiring of a single worker.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children; however, forced labor was a problem. In August, a group of indigenous workers from Oaxaca, Guerrero, and Veracruz claimed to local police that they had been brought to the State of Chihuahua and forced to live and work in the fields under inhuman conditions. Several of the Northern States have experienced an influx of poor and often indigenous workers from other states, who were sometimes victims of abusive labor practices. Three such cases presented in Chihuahua during the year were under investigation by local authorities at year's end.

Forced labor by children was a problem (*see* Section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Constitution prohibits children under 14 years of age from working and sets the minimum legal work age at 14 years; however, child labor remained a problem. Those between the ages of 14 and 16 may work only limited hours, with no night or hazardous work. Enforcement was reasonably good at large and medium-sized companies, especially in maquiladoras and industries under federal jurisdiction. Enforcement was inadequate at many small companies and in agriculture and construction. It was nearly absent in the informal sector, and the government's efforts to enforce the law stalled.

There were no reliable statistics on child labor in the rural areas. Most child labor was in the informal sector (including myriad underage street vendors), family-owned workshops, or in agriculture and rural areas. A study conducted by UNICEF and DIF found that urban child labor dropped by 17 percent from 1998–2003. The same study also found very little change in the number of hours worked and salaries earned by child laborers. One study by DIF and UNICEF concluded that 90,000 children in the State of Michoacan worked in slave-like conditions.

In May 2003, the Chamber of Deputies reported that at least 5 million children, mainly indigenous, work in the agricultural sector, the majority in harsh conditions of exploitation. The Commission for Rural Development reported that minors were employed by large agro-businesses, especially in Guanajuato, Sonora, Sinaloa, and Baja California and received salaries much less than those paid to an adult.

During the first 4 months of the year, 700 unaccompanied minors were apprehended along the country's northern borders. Most were between the ages of 15–17 and were caught while acting as drug and alien smugglers.

The Government, through DIF and programs for indigenous children, tried to provide education on site to the children of itinerant agricultural workers, who traditionally travel from place to place during the harvest season.

Trafficking in children for sexual exploitation was a problem (*see* Section 5).

e. Acceptable Conditions of Work.—The Constitution and the LFT provide for a daily minimum wage. The tripartite National Minimum Wage Commission (government, labor, and employers) usually sets minimum wage rates each December, effective on January 1, but any of the three parties can ask that the wage commission reconvene during the year to consider a changed situation. For the year, the minimum daily wages, determined by zone, were: Zone A (Baja California, Federal District, State of Mexico, and larger cities) $4.12 (46.80 pesos); Zone B (Sonora, Nuevo Leon, Tamaulipas, Veracruz and Jalisco) $3.99 (45.35 pesos); Zone C (all other states) $3.87 (44.05 pesos).

The minimum wages did not provide a decent standard of living for a worker and family. Few workers (approximately 15 percent) earned only the minimum wage; most workers earned multiples of the minimum wage, and industrial workers average three to four times the minimum wage, earning more at larger, more advanced, and prosperous enterprises.

The LFT sets 6 8-hour days as the legal workweek, but with pay for 56 hours. For most industrial workers, especially under union contract, the true workweek was 42 hours, although they were paid for 7 full 8-hour days. This was one reason why unions vigorously defended the legal ban on hourly wages. Workers asked to exceed 3 hours of overtime per day or required to work overtime on 3 consecutive days must be paid triple the normal wage.

The law requires employers to observe occupational safety and health regulations, issued jointly by the STPS and the Social Security Institute (IMSS), and to pay contributions that vary according to their workplace safety and health experience ratings. LFT-mandated joint management and labor committees set standards and were responsible for workplace enforcement in plants and offices.

STPS and IMSS officials continued to report that compliance was reasonably good at most large companies. However, because smaller firms were far more numerous and more difficult to monitor, these officials were unable to draw any general conclusions about their compliance. There were not enough federal inspectors to enforce health and safety standards at smaller firms. There were special problems in construction, where unskilled, untrained, poorly educated, transient labor was common, especially at many small sites and companies.

By September, the Secretariat of Labor had made 4,023 safety and hygiene inspections in private factories and public institutions; however, the 225 federal labor inspectors and approximately 350 state inspectors were too few to permit frequent inspections.

Individual employees or unions may complain directly to inspectors or safety and health officials. Workers may remove themselves from hazardous situations without jeopardizing their employment. Plaintiffs may bring complaints before the federal labor board at no cost to themselves.

NICARAGUA

Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. In 2001, voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party (PLC) as president in a generally free and fair election. The Supreme Electoral Council (CSE) is ostensibly an independent fourth branch of government; however, it was subject to political influence. The Constitution provides for an independent judiciary; however, the judiciary was susceptible to political influence and corruption.

The President is the supreme chief of the national defense and security forces. A civilian has led the Ministry of Defense since 1997; however, the Minister of Defense has limited authority over the military under the Constitution. The Ministry of Government oversees the National Police (NNP), which is charged formally with internal security; however, the police share this responsibility with the army in rural areas. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market-based economy is predominantly agricultural; seafood, apparel assembly, and tourism are also important. The country's population is approximately 5.4 million. A worldwide drop in coffee prices, the lack of an adequate legal framework for investors, a fragile banking system, the high level of external and domestic debt, and unresolved property disputes stemming from massive confiscations by the Sandinista government in the 1980s limited economic growth. Government officials reported 4.2 percent gross domestic product growth in real terms during the year. While official figures were unavailable, a November 2003 Gallup poll found 41 per-

cent unemployment. During the year, the U.N. estimated unemployment at 30 percent. The economy remains heavily dependent on foreign aid and remittances from abroad. Wages have generally kept even with inflation. The Government generally respected the human rights of its citizens; however, serious problems remained in some areas. At year's end, there were ongoing investigations of members of the security forces accused of having committed unlawful killings. Police continued to beat and otherwise abuse detainees. Some detainees credibly alleged that they were tortured. Holding cell conditions remained harsh. Security forces arbitrarily arrested and detained citizens; however, the number of reports of arbitrary arrests and detentions decreased during the year. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. The new criminal procedures code took effect for all new cases at the end of the year. The judiciary is subject to political influence and corruption. The weakness of the judiciary continued to hamper prosecution of human rights abusers in many cases. The office of Human Rights Ombudsman remained vacant for 6 months due to political disputes between the two major political parties. Violence against women, including domestic abuse and rape, remained a concern. Salary discrimination against women in the labor force is endemic. Violence against children and child prostitution continued. There were several documented reports of trafficking in women and girls for the purpose of sexual exploitation. Discrimination against indigenous people also occurred. Child labor continued to be a problem. The violation of worker rights in free trade zones continued.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings by government officials; however, during the year, the police received 20 allegations of unlawful killings by police officers; each of these was referred to the IG of the police (IG). In seven cases, the IG's office exonerated the police officers of any wrongdoing. In 11 other cases, the IG handed down administrative punishments. The remaining two cases remained under investigation at year's end. All homicide cases involving police were automatically referred to the courts for review, but few verdicts had been handed down by the end of the year. There were 54 reported injuries inflicted on criminal suspects by police during arrests (*see* section 1.d.).

On February 10, unknown persons killed radio journalist Carlos Guadamuz in what the public and media widely regarded as a political assassination (*see* Section 2.a.).

On April 5, police officers Fernando Escobar and Victor Manuel Jarquin shot and killed Wilfredo Alberto Mereno in Chichigalpa while he was holding a knife to the neck of and threatening to kill his domestic partner. Mereno's brother claimed that the police killed Mereno without trying to negotiate with him and maintained that Mereno had no intention of harming his partner. However, the Nicaraguan Center for Human Rights (CENIDH) mounted an investigation during which several witnesses reported that Mereno was intoxicated and violent and that the police negotiated, unsuccessfully, with him for an hour; CENIDH concluded that the police officers acted correctly. CENIDH noted, that, had the officer who fired the fatal shots been armed with a service pistol rather than the automatic rifle that many police officers carry, Mereno might have survived. Both the IG and the court system also concluded that the officers had acted properly under the circumstances.

On May 4, unknown assailants killed four police officers in Bluefields (*see* Section 5).

Although officer Javier Somarriba was dishonorably discharged from the police force for his June 2003 beating of Saturnino Varela Escalante, which led to Varela's death in police custody, the courts declared Somarriba not guilty in December 2003.

Both the police IG and the courts found officer Dimagio Valverde not guilty in the August 2003 killing of Marvin Jose Miranda.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law makes the use of torture a punishable crime; however there were credible reports that police beat or physically mistreated detainees, often to obtain confessions. The IG's Office recorded 1,336 complaints of mistreatment by police and found 528 to have merit. The IG punished 781 officers involved in these cases. Among the complaints were 54 instances in which police seriously wounded criminal suspects while attempting to arrest them.

The IG's Office reported that it received a total of 632 complaints of human rights violations by police officers during the year, including unlawful killings (*see* Section 1.a.) and complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 199 to have merit. The IG's Office punished a total of 295 officers for violation of human rights. Of those punished, the police discharged 10 officers dishonorably, remanded 63 to the courts on both human rights and corruption charges, and gave the rest lesser punishments, including demotion, suspension, and loss of pay.

On February 21, several police officers allegedly entered the home of Mayra Turcios Mojica in Masachapa without a warrant to arrest her 18-year-old son. When Turcios Mojica protested, the officers threatened to arrest her and her 13-year-old daughter. One of the police officers knocked the girl unconscious by striking her in the head. The IG investigated and concluded that the officers had been in pursuit of an armed robbery suspect and had taken him into custody outside of the Mojica household. Therefore, they did not need a warrant. The IG found no evidence of the abuse or rights violations described by Turcios Mojica and concluded that the officers had acted properly.

In April, Jose Silva of Chaguitillo accused police of shooting at, detaining, and beating him as they attempted to break up a scuffle. One of the officers reportedly wounded Silva in the leg, foot, and buttocks. Silva claimed that the police later tried to prevent him from going to a hospital. The Internal Affairs Division of the NNP ultimately determined that voluntary police officer Marvin Huerta Orellana was responsible for mistreating Silva. The NNP removed Orellana from the ranks of the voluntary police and referred the case to the local criminal court in Sebaco, which found Orellana not guilty on all charges.

No criminal charges were ever filed against officer Marcos Vasquez for the May 2003 unlawful arrest and beating of Humberto Torres Mendieta. Vasquez also successfully appealed his removal from the police for the beating and was reintegrated into the police force, albeit at a lower position.

In the case of the September 2003 rape allegedly committed by police officer Andres Montes, both the police IG and the court system found insufficient evidence to punish or convict Montes.

In the case of the September 2003 police beating of Octavio de la Rocha, the police IG concluded that one officer had used excessive force and put him on restricted duty for 30 days. The criminal case against the officer was still awaiting trial at year's end.

Prison conditions were difficult. According to government statistics, the prisons, with an official capacity of 5,358, had a total inmate population of 5,601 in December, up from 5,306 in December 2003. Detainees were held separately from convicted prisoners (*see* Section 1.e.).

Prison guards received human rights training from the Human Rights Ombudsman (PDDH), funded by international donors, and generally treated prisoners well.

The prison system remained underfunded, and medical supplies ranged from inadequate to nonexistent. The Ministry of Health continued to provide some medical care, although it was unclear if this had made an impact on prisoner's access to health care. For all 8 penitentiaries and 5,601 prisoners, prison authorities maintained a staff of only 28 medical specialists, including doctors, psychologists, and nurses. Eleven medical personnel were located in Tipitapa, the country's largest prison near Managua, and there were at least two in each of the other seven facilities. Prison authorities reported that 30 percent of prisoners slept on metal bunks or mattresses on floors. Several churches and nongovernmental organizations (NGOs) donated foodstuffs, beds, and medicine to help alleviate shortfalls. The quality of prison food remained poor, and malnutrition remained a problem in local jails and police holding cells. Prison officials calculated that the daily expenditure per prisoner for food was about $0.50 (7.2 cordobas). Many prisoners received additional food from visitors. Many police holding cells were dark, poorly ventilated, and unhygienic. Conditions in jails and holding cells remained harsh. Police station holding cells were severely overcrowded. Suspects regularly were left in these cells throughout their trials, since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Bluefields jail, there were only 2 showers and 4 toilets for more than 100 prisoners. The authorities occasionally released detainees when they could no longer feed them. Only Managua had a separate prison for women; outside Managua, women were housed in separate wings in prison facilities and were guarded by female custodians. As of December, females made up 6.1 percent of the prison population. The Public Defender's office assigned two full-time employees to work with the women's prison system to help ensure prisoners' rights.

As of December, 0.7 percent of the prison population was between the ages of 15 and 18. All youths were housed in separate prison wings and were on different schedules than adults for mealtime and recreational activities.

In 2002, Casa Alianza and the Human Rights Ombudsman's Office published a survey of 85 underaged detainees throughout the penal system. According to the survey, the police often failed to inform the detainees why they were being detained. Approximately half of those surveyed alleged police mistreatment, said that they were detained 3 days or more before seeing a judge, and were not aware of being assigned a defense attorney. One quarter said they were incarcerated with adults.

In July, Julio Cesar Lopez Martinez died in the Modelo prison in Tipitapa. Prison authorities initially claimed that Lopez died of cardiac arrest induced by extreme intoxication, but the medical examiner ruled that Lopez died of cerebral hematoma resulting from a severe beating. The Lopez family blamed other prisoners for the killing and accused prison authorities of ignoring threats to Lopez's life and then attempting to cover up his death. CENIDH investigated the case and concluded that Lopez's death could have been prevented and that the prison authorities had failed to protect him. Upon receipt of the medical examiner's report, the prison authorities opened an investigation into the death; however, no information on the outcome of the investigation was available at year's end.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest or Detention.—Arbitrary arrest and detention by the police decreased under the new Criminal Procedures Code. The Police Functions Law requires police to obtain a warrant prior to detaining a suspect and to notify family members of the detainee's whereabouts within 24 hours. Under the Code, a prosecutor must accompany police making an arrest, and detainees have the right to an attorney as soon as they are arrested.

The NNP is a single, unified force responsible for law enforcement throughout the country. Although the NNP has had difficulties solving some high profile crimes and has not been immune to corruption, it is generally regarded as one of the more effective and honest state institutions. The IG's Office investigates all allegations of police abuses and has been more willing to punish offenders than have the courts. Police officers received regular human rights training.

The NNP continued to reduce the law enforcement role of voluntary police, private citizens who help fill staffing gaps in several precincts. Several voluntary police were implicated in human rights abuses during the year. The IG remands to the court system for review all cases in which police use deadly force; however, the courts often take considerable time to process these cases and most cases never reach a final resolution (*see* Section 1.e.). The police do not make a final decision on cases sent to the courts until the courts respond with a verdict. While the police await the decisions from the courts, the IG's office normally applies administrative restrictions, such as suspension with pay or confinement to precinct. At year's end, the IG reported that 18 officers involved in cases in which the police had used deadly force had been remanded to the courts, but had no information on how these cases were adjudicated.

The IG's Office investigated allegations of abuse by the regular police and sanctioned the offenders in many cases; however, a degree of impunity persisted. Inadequate budget support for the NNP hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, international assistance programs provided the police with extensive training during the year. Police trainees must receive human rights instruction to graduate from the police academy and become officers. In addition, police officers must be re-certified in human rights annually. Canadian police and the Inter-American Commission of Human Rights (IACHR) trained the instructors teaching the human rights courses. The army included human rights training in its core-training curriculum (*see* Section 4).

Police may hold a suspect legally for 48 hours before they must bring the person before a judge to decide if charges should be brought. The judge then either must order the accused released or transferred to jail. Although cumbersome, this law was observed more closely than in the past, and few prisoners were held illegally beyond the 48-hour deadline (*see* Section 1.c.). During the 48 hours, the suspect does not have access to bail or to visits from family members. The number of provisionally convicted prisoners awaiting trial continued to drop. Although the number of prisoners in jail awaiting trial was not available, statistics from the Department of Prisons indicated that 14.7 percent of all prisoners being held were awaiting final verdicts, compared with 26 percent in 2002.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary was highly susceptible to corruption and political influence. Arcane legal codes also hampered the work of the judiciary. Judges' political

sympathies and their acceptance of bribes or influence from political leaders often influenced judicial actions and findings. The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court and not only administers the judicial system, but also nominates all appellate and lower court judges. The Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. Under the Law of the Child and Family, the Attorney General's Office, rather than the police, investigates crimes committed by and against juveniles. The military code requires that the civilian court system try members of the military charged with common crimes. The civil and criminal courts continued to expedite the judicial process for those in prison awaiting a final verdict. Human rights and lawyers' groups continued to complain about the delay of justice caused by judicial inaction. Judges were susceptible to corruption and political influence. Rulings in favor of those who are politically connected remained the most visible manifestation of judicial corruption. Both the PLC and Sandinista (FSLN) parties used the judiciary for political purposes. The FSLN especially used its control of the judiciary to impede the resolution of property claims.

In July, the Supreme Court, evenly divided between Sandinista and Liberal magistrates because of a 2003 deal between the two political parties, ended an 8-month deadlock over lower level judicial appointments and divided 16 appeals court positions among judges with political loyalties either to Arnoldo Aleman or Daniel Ortega. As in the past, the Supreme Court ignored lists of experienced and politically neutral candidates proffered by civil society and the Bolanos Administration.

Also in July, the FSLN-dominated judiciary dismissed all charges or threw out the defendants' convictions in each of three different corruption cases against associates of former President Aleman. Both the media and government officials alleged that the verdicts were part of an ongoing deal between Aleman and Ortega.

In August, PLC substitute judge Moises Rodriguez convicted Alejandro Fiallos of corruption charges based solely on limited witness testimony. Local legal experts described the judge's actions as, at best, without basis, and at worst grossly illegal. At the time of his conviction and arrest, Fiallos was the Managua mayoral candidate of President Bolanos' Alliance for the Republic party and there was widespread public and media speculation that Aleman and Ortega agreed upon his conviction to remove a rival to their parties' candidates in the mayoral race. Fiallos appealed the conviction and was released on bail after 8 days' incarceration. The CSE ruled that his mayoral candidacy could continue as long as his appeal was pending. In November, after the municipal elections, a Sandinista judge rejected Fiallos' appeal and sentenced him to 45 days' imprisonment and the loss of his political rights for 1 year. Fiallos fled the country before he could be arrested and remained in hiding at year's end.

In December 2003, Sandinista judge Julia Mayorga convicted Henry Ruiz and the other members of the board of directors of the Augusto Cesar Sandino Foundation (FACS) on charges of document fraud and illicit association to commit a crime and sentenced them to 1 year's imprisonment. For years, Daniel Ortega and his allies had used the FACS as a tool of FSLN patronage, but Ruiz and a new board, elected in 2003, sought to root out the corruption in the organization. In response, the former director, Edwin Zablah, a close associate of Ortega, filed a criminal lawsuit against Ruiz and the other board members. Under the law, many civil suits can be tried as criminal cases. In December 2003, Judge Mayorga convicted the members of the board, and in July, another Sandinista magistrate, Adela Cardoza, upheld the conviction on appeal and removed Ruiz and the rest of the board from their positions. In October, three Supreme Court judges loyal to Aleman and three loyal to Ortega rejected the appeal of this decision made by Ruiz and the other defendants. The court's decision left the threat of a year of prison time hanging over the heads of Ruiz and the others and left the FACS in the hands of Zablah.

At the end of the year, former President Aleman remained under house arrest for money laundering, fraud, and other corruption charges; however, press reports indicated that Aleman and Ortega were negotiating a political deal to erase Aleman's conviction.

The Supreme Court's (CSJ) campaign to reduce incompetence and corruption in the judiciary continued during the year. Since the campaign began in 1997, the CSJ has removed 168 judges—more than one-half of the 300 judges in the system. However, the Supreme Court's disciplinary commission, which is charged with overseeing judges' ethics and conduct, was chaired by Rafael Solis, a corrupt Supreme Court justice with close ties to the FSLN.

The December 2002 Criminal Procedures Code established an accusatory, as opposed to an inquisitorial, system of justice; more transparent, it relies on prosecutors, rather than judges, to file charges. At an arraignment, a judge decides whether the available evidence merits sending the case to trial. At the trial stage, the judge

takes a neutral presiding role and both sides present their cases to a jury. Initially applied only to the most serious offenses, in December the system became responsible for all new criminal cases. The new system provided greater transparency by allowing the accused greater access to the process; reduced substantially the case backlog; and shortened the average time for a verdict to 15 days as the result of better coordination between all parts of the law enforcement process. There remained a need for more personnel in the system, including public defenders.

During the year, the Napoleonic legal system continued in use for some cases. Police had to present a detained suspect before a judge within 48 hours. The judge then had to hold a preliminary hearing within 10 days. These constitutionally mandated deadlines were usually observed. If a judge ruled that there was sufficient evidence at the preliminary hearing, the suspect was sent to trial. While awaiting and undergoing trial, suspects were often held in custody. The trial consisted of hearings held by the judge to investigate the matter further, followed by a review of the written record of the hearings by a five-member jury, which would issue a final decision. Very simple cases or those with high profile or outside interest could be resolved quickly, but others languished for months. Although the legal limit for resolution was 6 months, many suspects were held without trial for longer periods.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. The law provides for the establishment of a Public Defender's Office, staffed during the year by 47 public defenders, to represent indigent defendants. The district court of Managua maintained a staff of 12 public defenders. In courts other than district courts, where public defenders were not available, a more archaic system provided for the appointment of attorneys to represent indigent defendants from a standard list by the presiding judge. However, many attorneys paid a small fine rather than represent such clients because the State did not pay for attorneys for the indigent. Under the new Code, the number of indigent defendants who went to trial without an attorney decreased as the judges assumed an oversight role in court proceedings.

The country still lacked an effective civil law system. As a result, private litigants often filed their cases as criminal complaints. Often the effect of a criminal proceeding in these matters was to force one party to concede to the party with more influence over the judge rather than face the prospect of detention in jail. In addition, this civil-based criminal caseload diverted resources from an overburdened Prosecutor's Office that otherwise could be directed toward genuine criminal matters. There were no reports of political prisoners.

In 2000, the Government opened property tribunals to handle cases concerning properties seized during the Sandinista regime in the 1980s. In 2002, the Supreme Court consolidated these tribunals into a single tribunal. The property tribunal has been extremely vulnerable to political pressure.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. However, several constitutional provisions potentially qualify freedom of the press. The Constitution stipulates that citizens have the right to accurate information, thereby providing an exception by which the freedom to publish information that the government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, the law establishes a retroactive liability, implying the potential for sanctions against the press; however, the government did not invoke these provisions to suppress the media. The independent media were active and expressed a wide variety of views without restriction. The news medium with the largest national audience is radio; however, polls showed that television is the primary source of news in the cities. There are 210 chartered radio stations in the country, 52 am stations and 158 fm stations; listeners receive a wide variety of political viewpoints, especially on the 74 stations based in Managua. There are 10 Managua-based television stations, 8 of which carry news programming, some with noticeable partisan political content. In addition, there are 63 cable television franchises that offer services in most large and medium-sized cities.

The Bolanos Administration attempted to standardize the way government advertising funds were allocated to the various media outlets by implementing a system based on market share. This forced some smaller media outlets to close because the media were largely dependent upon government funding, and there was not enough private advertising to support them.

On February 10, William Hurtado, a former member of the Sandinista state security apparatus in the 1980s and a self-proclaimed militant Sandinista, shot and killed journalist and radio personality Carlos Guadamuz in Managua. A former Sandinista militant, Guadamuz had broken with Daniel Ortega and the FSLN leadership after they passed him over to be the party's 2000 mayoral candidate for Managua. Subsequently, Guadamuz used his radio program to criticize Ortega and other FSLN leaders on a wide range of issues, and they expelled him from the party. On April 19, a court convicted Hurtado and sentenced him to 18 years in prison. However, despite evidence that others were involved in planning the killing, the short trial failed to address the reasons for the murder or implicate anyone other than Hurtado.

In August, Sergio Leon Corea, the correspondent for La Prensa in Bluefields, alleged that police officers were harassing and threatening him and had broken into his home in search of information related to his reports on police involvement with drug trafficking on the Atlantic coast. Stating that the police IG's office had failed to follow up on earlier complaints he had made, Corea asked CENIDH to investigate. CENIDH's investigation was inconclusive, but the case nevertheless prompted the organization to alert the IACHR regarding the threats and dangers facing journalists in the country.

Also in August, Mirna Velasquez, a journalist for La Prensa in Managua, filed a complaint with CENIDH alleging that substitute Judge Carlos Mario Pena had blackmailed and threatened her and her family in an effort to coerce her to stop writing about judicial investigations of his actions. A series of Velasquez articles, published in 2003 when Pena was named to his position in Managua's criminal court, revealed that he was under investigation for involvement in migrant smuggling. In August, Velasquez published an article that reported that his judicial superiors were once again investigating him. Subsequently Pena allegedly informed Velasquez that he had gathered a great deal of personal information on her and her family, including information linking them to drug trafficking. Velasquez accused Pena of blackmail and conducting an illegal investigation of her and her family. Pena denied the accusations, and the case remained under investigation at year's end.

On November 9, the former PLC mayor of El Ayote, Eugenio Hernandez Gonzalez, shot and killed Maria Jose Bravo Sanchez, a journalist for La Prensa, outside of the vote-counting center in Juigalpa in front of dozens of witnesses. Hernandez was arrested shortly after the killing and at year's end was in jail awaiting trial. Friends and family of Bravo Sanchez stated that the journalist had received several death threats from prominent local PLC members prior to the municipal elections held 2 days before her killing.

The Government did not restrict access to the Internet. The Government did not restrict academic freedom.

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

The Constitution also recognizes the right to public assembly, demonstration, and mobilization in conformity with the law, and the law requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. The authorities routinely granted such permission; however, many groups claimed that the process was too cumbersome and marched without registering.

For several days in May, thousands of university students organized protests in Managua, Jinotepe, Leon, Esteli, Matagalpa and other cities regarding the Government's failure to increase the education budget. During many of these protests, some of the students became violent, injuring police and bystanders, throwing Molotov cocktails and firing homemade mortars, damaging property, and disrupting traffic on roads and highways. The violence sparked confrontations with police, who often arrested violent participants, usually releasing them the next day. During each such violent protest, several persons, sometimes including police, were taken to local hospitals and treated for tear gas inhalation and other injuries. One police officer in Jinotepe was killed by a mortar round fired by protesting students. Police repeatedly affirmed the students' right to protest as long as they remained peaceful.

The Constitution provides for the right to organize or affiliate with political parties, and the Government generally respected this right in practice. Opposition and independent associations functioned freely without government interference or restriction. Private associations do not have legal status to conduct private fund raising or receive public financial support until they receive authorization from the National Assembly, which confers it routinely.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government's requirements for legal recognition of a church are similar to its requirements for other private associations (*see* Section 2.b.). A church must apply for "Personeria Juridica" (legal standing), which the National Assembly must approve. Following Assembly approval, a church must register with the Ministry of Government as an association or a foundation. The Roman Catholic Church is not an official state religion; however, it has traditionally enjoyed a close relationship with the Government. Its relationship with the Bolanos Administration was more distant. The Roman Catholic Church is the most politically active religious denomination and has significant political influence. At times, there have been allegations that government officials have given financial assistance to the Catholic Church. However, the predominance of the Catholic Church did not have a negative impact on the freedom to practice other religions.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within The Country, Foreign Travel, Emigration, And Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. The right of citizens to return to the country is not established in the Constitution, but, in practice, the Government did not restrict its citizens' return. A 2002 amendment to the Constitution affirmed that citizens cannot be deprived of their citizenship, and that citizenship is not lost by acquiring another citizenship. However, the Constitution retains certain citizenship requirements for high-level government officials, including the provision that they must renounce citizenship in other countries at least 4 years prior to their election or appointment.

Exile was not practiced. There were no reports of political violence against any citizens returning from civil war era self imposed exile.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National elections were held in November 2001. The Constitution distributes power and authority among the four co-equal branches of government. The President heads the Executive Branch and appoints a Cabinet. The President is both head of state and head of government, as well as supreme chief of the defense and security forces. The Vice President has no constitutionally mandated duties or powers. Both the President and Vice President are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates if one does not obtain at least 35 percent of the vote on the first ballot. The Constitution does not permit the President to hold consecutive terms in office. A single-chamber, 92-member National Assembly exercises legislative power. In 2001, voters elected 90 members, including 20 deputies from nationwide lists and 70 from lists presented in each of the 15 departments and the two autonomous regions. The outgoing President and the presidential candidate receiving the second highest number of votes are each given seats in the National Assembly; however, outgoing President Aleman was removed from his seat when he was convicted on money-laundering charges. Members elected concurrently with the President and Vice President in 2001 are scheduled to complete their 5 year terms on January 9, 2007. Because of political disputes with the President, at the end of the year PLC and FSLN deputies in the National Assembly had begun to enact constitutional changes that would transfer many of the President's powers to the Assembly.

According to the Constitution, the Supreme Electoral Council (CSE) is supposed to be an independent fourth branch of government. However, the CSE was highly politicized and subject to political influence. The CSE did not function properly throughout the year, paralyzed by internal political disputes and a top-heavy bureaucracy. It verged on bankruptcy, even after firing 50 percent of its workers. It could not pay the remaining employees for months in 2003, and many of them went

on strike, suspending the issuance of national identity cards that are required to vote. This strike continued throughout the year. Nevertheless, CSE magistrates raised their own annual salaries by 100 percent to as much as $155,494 (2,332,500 cordobas), roughly 60 percent more than the salary of government ministers. Many observers feared that CSE would have problems conducting upcoming municipal and national elections unless the situation was reversed. In 2002, the CSE prevented regional election results from being implemented for many months. As a consequence, the CSE retained little public confidence; in a pair of July polls, 95 percent of respondents had little or no confidence in the CSE as an institution and only 49 percent had any confidence that it could manage upcoming municipal elections in November. Those elections were in fact marred by serious problems, including poor CSE maintenance of the voting registry that made it difficult for many persons to find their correct polling precincts and prevented others from voting at all. There were also credible allegations that the CSE invalidated results in key precincts to ensure that a number of close races were won by the PLC and FSLN.

In 2001, generally free and fair national elections were held under the auspices of the CSE. Voters elected Enrique Bolanos Geyer of the PLC president with 56 percent of the vote; FSLN candidate Daniel Ortega received 42 percent. In the simultaneous legislative elections, the ruling PLC alliance won 52 deputy seats, the FSLN won 37, and the Conservative Party won 1 seat. CSE reports indicated that over 90 percent of eligible voters were registered; the CSE also announced that more than 92 percent of eligible voters cast ballots.

In October, in what was widely considered a political decision, the Controller General's Office, which was controlled by supporters of former President Aleman and Ortega, released a long-awaited report accusing President Bolanos of fund raising violations during his 2001 electoral campaign. The case involved the alleged misuse of government funds and foreign government donations. The controllers charged that Bolanos refused to answer fully their questions posed during a 2-year investigation and recommended that he be fined and that the National Assembly remove him from office. Bolanos refuted the accusation and noted that of the 30 PLC leaders investigated in the case, only he had been charged with any crime. Both the Organization of American States (OAS) and foreign governments expressed concerns that the political charges against the president and the efforts to remove him from office amounted to a threat to the constitutional order. At year's end, the charges remained, and it was possible that the National Assembly could take them up at any time.

The Government continued its anti-corruption campaign during the year, but its efforts were hampered by the corrupt, politicized judiciary, which threw out a large number of corruption cases (*see* Section 1.e.). There was also a widespread public perception of corruption and political deal making in many state institutions, including the judiciary, the National Assembly, the CSE, the Controller General's Office (Controloria), and the Office of the National Prosecutor (Fiscalia).

No law provided for public access to government information. In practice the Government sometimes provided such access for citizens and non-citizens. Because no formal procedure for requesting information existed, when access was denied a great variety of reasons were given. No appeal procedure existed.

There are no legal impediments to the participation of women, indigenous people, and other minorities in government and politics. Women held ministerial, vice ministerial, and other senior positions in government, including 21 out of 90 National Assembly seats. In addition, 4 of the 16 CSJ justices were female, and in 2002, the Magistrates of the CSJ elected Alba Luz Ramos as president, the first woman president in the history of the Court. Women held approximately 70 percent of the judgeships in the country. Two members of the National Assembly claimed indigenous heritage. To ensure participation by indigenous groups, political parties must include on their party tickets a certain percentage of candidates from the various indigenous populations.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. The largest groups to deal with general issues of human rights were the Sandinista-influenced CENIDH and the pro-Aleman Permanent Commission on Human Rights in Nicaragua. Many such human rights groups focused most of their attention on controversial economic rights, such as access to employment, social security, healthcare, and education. Other groups focused on a particular area of human rights, such as Casa Alianza, which primarily concentrated on children's

issues, and the Women's Network, which addressed domestic violence and other women's issues. CENIDH continued to conduct human rights workshops at the police academy, at various police headquarters, and with army units throughout the country. The military academy instituted human rights training as part of their core curriculum, and some military officers received internationally sponsored human rights training. The OAS Technical Cooperation Mission (TCM) focused on the municipalities affected most adversely by the 1980–90 civil war and worked on conflict resolution, reconciliation, improving local government, and extending legal infrastructure. The TCM and Catholic Relief Services helped maintain departmental and local peace commissions in the northern and central parts of the country, intended to give inhabitants of the area a sustainable means of dispute resolution, a means of monitoring human rights abuses, and a vehicle for expressing their concerns to government authorities. Many of the commissions operated in areas that were without any governmental presence and served as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year.

The Ombudsman's PDDH, the autonomous government-financed human rights office, struggled with budget shortfalls and political negotiations between the PLC and the FSLN over naming a new Ombudsman to lead it after the end of the term of the first Ombudsman, Benjamin Perez, midway through the year. The office remained vacant until December, when the PLC and FSLN, ignoring the views of civil society and rejecting more qualified candidates, selected Omar Cabezas to be the new Ombudsman. Cabezas is a former Sandinista guerrilla accused of involvement in extrajudicial killings both as a guerrilla in the 1970s and as a state security official in the 1980s. Cabezas was also involved in the planning of the forced resettlement of thousands of indigenous people on the Atlantic Coast in the 1980s, which led to the deaths of hundreds of persons.

There are also special ombudsmen for children's issues, women's issues, and indigenous affairs. Under Perez' leadership, the PDDH investigated human rights violations and demonstrated independence from the administration, pursuing cases even if they contradicted government policies. However, the Aleman administration cut the budget of the Ombudsman's office by nearly 40 percent and its original budget has never been restored. The PDDH is subject to political pressure. Many of the cases it receives include economic and social issues, such as access to health, education, and social security, as well as human rights issues. Government institutions have been unresponsive in many of these cases.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, opinion, national origin, economic condition, or social condition; however, in practice, the Government made little or no effort to combat discrimination. Few, if any, discrimination suits or formal complaints were filed with government officials.

Women.—The most prevalent violations of women's rights involved domestic and sexual violence, which were widespread and underreported. In 2003, the most recent year for which statistics were released, the government's Women's Institute and United Nations office in Managua reported that 51,343 women suffered domestic abuse, and that women filed 49,266 charges with the police. 106 women left home out of fear of their spouses. The Women's Institute and the U.N. office also reported that 90 percent of all cases of violence and sexual abuse against women took place in the home and that 78 percent of the abusers were the fathers and stepfathers of the victims.

The law criminalizes domestic violence and provides up to 6 years' imprisonment for those found guilty of such violence. The law also provides for the issuance of restraining orders in cases in which women feared for their safety. The NNP, as well as local human rights groups, confirmed that while police sometimes intervened to prevent domestic violence, prosecutors rarely prosecuted perpetrators because they alleged that victims fail to press charges or follow through on testifying in court. Cases that reached the courts usually resulted in not guilty verdicts due to judicial inexperience and lack of legal training.

The Criminal Code provides punishment for sexual abuse and stipulates that any person convicted of physically abusing or raping another person can be sentenced to between 9 months and 4 years in prison; this penalty is increased to 3 to 20 years if the victim is less than 10 years of age or if the perpetrator is a parent or guardian of the victim. According to the most recent statistics from the NNP, the police received 1,234 rape complaints during 2003 and 1327 during the year, compared with 1,348 reported instances of rape in 2002. Many women were reluctant to report abuse or file charges due to the social stigma attached to rape. The police managed

24 women's commissariats, with at least 1 in each of the country's 17 departments, with a total staff of approximately 100 persons. Each commissariat is located adjacent to a police station and is supposed to be staffed by six police officers, two social workers, one psychologist, and one lawyer. However, a lack of funding limited the staff size. The commissariats provided both social and legal help to women and mediated spousal conflicts. They also investigated and helped prosecute criminal complaints and referred victims to other governmental and nongovernmental assistance agencies. The commissariats reported 10,423 cases of domestic violence and 2,245 cases of sexual infractions for 2003 and a total of 17,281 cases of domestic violence (including sexual infractions) for the year. All of these statistics are far higher than the figures for 2002. It is not clear that there was an actual increase in the rate of domestic abuse or if the soaring numbers were due to other factors, such as the increased confidence that victims have in reporting their abuse to the women's commissariats and the increased number of commissariats. Although the Government did not have shelters for victims of domestic violence, a few NGOs in a handful of cities provided short-term shelter to battered women.

By year's end, the IACHR had not ruled on the complaint of Zoilamerica Narvaez that the Government had denied her due process in 2002 by dropping sexual molestation, harassment, and rape charges against former President Daniel Ortega.

Prostitution is legal and common. According to a number of sources, including the Director of Police Criminal Investigations and the Director of Police Economic Investigations, prostitutes worked without a pimp, since prostitution is legal but pimping is not. Statistics from the women's commissariats showed few cases of pimping. A number of studies supported this, including an intensive analysis done during 2003 by the University of Central America in the tourist city of Granada, in which all the under age prostitutes interviewed told the researchers that they operated on their own. In Managua most prostitutes worked on the streets, clandestinely in nightclubs and bars, or offered sexual services in massage parlors. In several raids on these businesses, police did not find underage workers, although there were reports that some workers are below the age of 18. In towns along the Pan American Highway, women and girls sold sexual services to truck drivers and other travelers, who were often foreigners driving north from Costa Rica. In port cities such as Corinto, the primary clientele were sailors. Corinto was unusual in that prostitutes received medical examinations and a card certifying if they were free of disease. In addition, prostitutes in Corinto reportedly often worked together to maintain a rudimentary price-setting structure that enabled them to earn much more than they would in other areas. However, in most areas, prostitutes did not have access to medical screening or treatment. In September, the National Assembly passed a tourism law that specified that any traveler engaging in sex tourism would be prosecuted to the fullest extent of the law and specifically prohibited the promotion of sex tourism. According to the new law, any organization that promotes sex tourism will lose its operating license. The law prohibits sexual harassment in the workplace; however, it continued to be a widespread problem. Penalties are negligible, and the Government did little to enforce the law. Although the Constitution provides for equality between the sexes, discrimination against women persisted. According to a 2000 poll, women comprised approximately 61 percent of the public sector labor force, a number much larger than in the private sector. Salaries for male and female workers differed significantly, with men sometimes making twice as much as women in the same positions. Even with similar qualifications, men advanced more quickly than women. Women constituted the majority of workers in the traditionally low-paid education and health service sectors.

Women were generally underpaid, but the majority of women had some type of employment. A 2001 International Labor Organization (ILO) study concluded that of the 561,000 employed women, 184,000 were self-employed and 377,000 were salaried workers. More than 92 percent of women capable of employment had some type of job, higher than the national average.

There were many NGO and government programs that targeted discrimination against women, mostly by analyzing the status of women in the workplace. Among the most prominent NGOs working on women's issues were Casa Alianza, the Women's Network, and the Rainbow Network.

Children.—The Government publicly expressed its commitment to children's human rights and welfare; however, government-wide budget constraints prevented it from providing adequate funding to children's programs or primary education. The National Council for the Development of Children and Adolescents, a broad group of government ministries and agencies concerned with youth, is responsible for the Government's policy on youth and developed an ambitious 10-year National Action Plan for Children and Adolescents. A constitutional provision known as the

6 percent rule automatically allots 6 percent of the annual budget to a university education consortium, vastly disproportionate to funding for primary and secondary education programs. Children 15 years of age and younger made up approximately 39 percent of the population. Education is compulsory through the sixth grade, but this provision was not enforced; a 2000 Ministry of Labor survey reported that 49.1 percent of children and adolescents do not attend school. Another 18.6 percent said their work interfered with their school attendance. As a result, the survey classified 22.1 percent of the population as illiterate. According to the 2001 census, primary school enrollment rates for boys and girls were estimated at 75 and 80 percent respectively. Juvenile offenders under the age of 17 comprised less than 1 percent of incarcerated offenders. This low figure was largely attributed to the leniency given to juvenile offenders by the Children's Code, which rarely gives jail time to juveniles. During the year, 65 minors died as a result of violent crime. During the same period, victims of rape included 259 children under the age of 13 and 627 between the ages of 13 and 17. These numbers did not include additional cases of incest (13) and statutory rape (574). There were an estimated 3,502 reported cases of physical and sexual assault committed against minors and 535 cases of child kidnapping. The NNP estimated that about 62 percent of sexual abuse victims were under the age of 18 and that 33 percent were younger than 13. The Child and Family Law provides that juvenile prisoners cannot be held in adult facilities or be held for more than 24 hours without being charged (*see* Section 1.c.). Child labor was a problem (*see* Section 6.d.).

Trafficking in Persons.—The law specifically prohibits trafficking in persons and assigns a penalty of up to 10 years in prison. There was little documented evidence of a substantial trafficking problem within the country; however, there was some evidence that the country was a source area for trafficking in women and children to other countries for purposes of sexual exploitation. Child prostitution was a problem.

During the year, officials from the Government, NGOs, and other organizations characterized trafficking as a small, but growing problem throughout the region. The Government, NGOs and media periodically reported cases of individual women trafficked to brothels in Guatemala and Mexico by well organized criminal bands operating throughout Central America, although few cases were fully documented by the authorities and there were no reliable statistics on the scale of the problem. The two main types of trafficking involved women moved from rural areas to urban nightclubs and massage parlors and women from urban areas, lured to brothels in neighboring countries by offers of legitimate employment.

The law does not make prostitution illegal, though it bans its promotion. The law defines statutory rape as sexual relations with children 13 years old and younger; thus, there is no legal prohibition on prostitution by juveniles 14 and older.

The Government continued its awareness campaign with border police and immigration officials and worked with the ILO to improve the ability of officials at entry points to Honduras to identify and question young women not accompanied by family members. In addition, the Government operated a 56-member Anti-Migrant Smuggling and Anti-Trafficking in Persons Unit within the police. The women's commissariats of the police conducted a nationwide trafficking awareness campaign at high schools, presenting high-risk youth with pamphlets and presentations warning them against the dangers of trafficking. According to the Ministry of Labor, strip clubs were inspected several times each year to ensure that they employed no underage workers. The Foreign Ministry's consular officers in neighboring countries assisted with the repatriation of victims.

In late 2003 and early in the year, members of civil society and the Government formed a national coalition against trafficking in persons. The coalition is designed to coordinate action against trafficking in persons by training and empowering national institutions to find and combat trafficking activity. During the year, it carried out awareness campaigns, worked to improve coordination between the Government and civil society in repatriation cases, and launched a major survey designed to provide the first reliable statistics on the extent of trafficking.

In July, the Ministry of Government opened an anti-trafficking in persons liaison office as a primary point of contact for anyone interested or involved in fighting the problem. The office is also intended to coordinate the activities of the national anti-trafficking coalition. Also in July, the National Assembly ratified the 2000 U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the U.N. Convention Against Transnational Organized Crime.

In October 2003, the National Council for Attention and Protection of Children (CONAPINA), a quasi-governmental institution composed of high-level state, non-

state, and international actors and charged with national policy on children, approved a National Strategy Against Commercial Sexual Exploitation of Children and Adolescents, including trafficking of children. The highly detailed plan was integrated with CONAPINA's 10-year national policy on children and developed as a national consensus. It designates the Ministries of Family, Health, and Education as the principal governmental organizations to create and enforce policies against trafficking in persons and other forms of commercial sexual exploitation. The plan encourages the participation of local government and civil society for its implementation. It sets out 12 clearly defined objectives and 9 strategies for implementation, including prevention, victim protection, victim attention, and prosecution of traffickers. The plan also has detailed measures for evaluating progress.

Persons With Disabilities.—There was discrimination against persons with disabilities in employment, education, access to health care, and in the provision of state services. Despite some efforts, the government's role in helping the disabled was minimal and often has been criticized. Despite an ongoing lobbying campaign by NGOs, the Government has not legislated or otherwise mandated accessibility to buildings for the disabled.

The National Council for Rehabilitation of the Ministry of Health addresses the needs of the estimated 535,000 citizens with some type of disability, few of whom received medical treatment. Through its clinics and hospitals, the Government provided care to war veterans and other disabled persons, but the quality of care was generally poor. During the year, the Government launched a public relations campaign calling for greater integration of persons with disabilities in society. The law obligates companies to contract persons with disabilities, not to let such disabilities affect salaries, and to consider disabled persons equal to other workers. However, this law rarely was enforced. Advocates for persons with disabilities contended that many national and local government officials either were unaware of the country's laws on equal opportunity or made no effort to put them into effect. They also criticized the requirement of the new national Civil Service Law that took effect during the year that all government employees be "physically and mentally able" for contradicting constitutional provisions stating that all persons are equal before the law.

National/Racial/Ethnic Minorities.—Most citizens are of mixed background, and ethnicity is not a barrier to political or economic success. However, various indigenous and ethnic groups from both the Northern and Southern Autonomous Atlantic Regions (RAAN and RAAS) sometimes linked the government's lack of resources devoted to the Atlantic Coast to ethnic, racial, and religious minorities that predominate in that region. In contrast with the rest of the country, the region's racial makeup tends to be black and Amerindian, while its religious makeup is principally composed of various Protestant denominations.

Indigenous People.—Indigenous people constitute approximately 5 percent of the country's population and live primarily in the RAAN and RAAS. These regions constitute 47 percent of the national territory, but include only 12 percent of the population. Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the 4 major identifiable indigenous groups are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000).

There were no new developments in the lawsuit brought against the Government in July 2003 by the Yatama political party before the IACHR alleging that the Government violated the rights of the Miskito and the Sumo by disqualifying Yatama in the 2000 municipal elections. However, Yatama was able to run in the November municipal elections and its candidate won in Puerto Cabezas, the capital of the RAAN.

During the year, representatives of indigenous communities that were forcibly relocated and whose property was destroyed or confiscated by the Sandinista regime in the 1980s called on the Government to provide them with some form of aid or compensation for their suffering. In return, they offered to refrain from initiating legal procedures against the state at the national and international levels. No information on any government response to the appeal was available at year's end.

Although the law requires the Government to consult indigenous people regarding the exploitation of their areas' resources, as in previous years, some indigenous groups complained that central government authorities excluded the indigenous people of the Atlantic Coast from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. In August and September, a wide range of local government officials and NGOs in the RAAN declared a 6-day "state of emergency" in the province, shutting down schools, closing government offices and the main provincial airport. They sought to draw attention to regional claims that the central Government not only ignored the people of the

Atlantic Coast when making decisions that affected them, but also neglected to maintain or improve infrastructure in the region, including roads, bridges, docks, and electricity. The protest ended when the Government signed an agreement promising to meet most of the local demands.

Government health care exists in the Atlantic Coast towns of Puerto Cabezas, Siuna, Bonanza, Rana, and Bluefields, but a majority of indigenous people in rural areas had no access to modern health care, and deteriorating roads made medicine and health care almost completely inaccessible in many communities. Critics of government policy cited extremely high unemployment rates among the indigenous, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic Coast is engaged in subsistence fishing, farming, and mining.

On May 4, unknown assailants entered the police station in Bluefields and killed four policemen in the station. Despite the high profile nature of the incident, a handful of arrests, and rampant public and media speculation on who was responsible for the killings, by year's end the NNP had made no progress in investigating the case. Speculation was widespread that drug traffickers, perhaps with the collaboration of some elements within the police, were responsible for the killings. The incident demonstrated how the lack of a government presence, ethnic tensions, poverty, and drug-based economic opportunity have created an ungoverned space on the Atlantic Coast. International drug traffickers increasingly took advantage of the situation.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of workers to organize voluntarily in unions, and the Labor Code reaffirms this right. All public and private sector workers, except those in the military and the police, may form and join unions of their own choosing, and they exercise this right extensively. The Labor Code permits the existence of more than one union, representing the same group of workers, at any place of employment. To become a union, a group of at least 20 persons must petition the Ministry of Labor for legal status and the right to engage in collective bargaining (*see* Section 6.b.). The Labor Code recognizes cooperatives into which many transportation and agricultural workers are organized. Representatives of most organized labor groups criticized these cooperatives and assert that they do not permit strikes, have inadequate grievance procedures, are meant to displace genuine, independent trade unions and are dominated by employers. According to the Ministry of Labor, approximately 15 percent of the work force was unionized. Unions are independent of the Government, although most were affiliated with political parties to varying degrees.

b. The Right to Organize and Bargain Collectively.—The Constitution provides for the right to bargain collectively, and the Labor Code reaffirms this right. The Government generally sought to foster resolution of pressing labor conflicts through informal negotiations rather than through formal administrative or judicial processes. According to the Code, companies engaged in disputes with employees must negotiate with the employees' union if the employees are organized. However, the possible existence of more than one union at any place of employment means that several unions, each with different demands, can coexist at any one enterprise. Similarly, management may sign collective bargaining agreements with each union. The Constitution recognizes the right to strike; however, legal strikes were rare. The Labor Code requires a majority vote of all the workers in an enterprise to call a strike. The Labor Code requires that before a union may strike, it must first receive approval from the Labor Ministry. To obtain approval, the union must go through a process that requires good faith negotiation with management. The Labor Ministry asserts that the process is necessary to avoid purely political bad-faith strikes in the highly politicized environment of labor relations that has existed in the country for several decades. Observers contend that the process is inappropriately lengthy and so complex that there have been few legal strikes since the 1996 Labor Code came into effect; however, an ongoing strike of government workers against the Supreme Electoral Council went through the approval process relatively rapidly in 2003 (*see* Section 3). There have been several illegal strikes.

The Labor Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. Because the administrative process of getting the Ministry of Labor to rule a strike legal is so lengthy and complex, unions sometimes declared strikes without completing the process. In these cases, the Ministry of Labor consistently ruled the strikes illegal and employers took advantage of the situation by firing the striking workers based on the Ministry's ruling.

There were several allegations of violations of the right to organize, most commonly that employers fired employees who were trying to form a union. The Ministry of Labor investigated these allegations and concluded that employers generally acted within the law, taking advantage of the extensive administrative requirements necessary to declare a strike legal or organize a union. Notwithstanding the legality of employer actions, the result was to weaken significantly the Sandinista Workers Central (CST), an important union politically associated with the FSLN in the Free Trade Zones (FTZ).

In July, the CST and the Sandinista Mayor of Leon settled their November 2003 disagreement over the labor rights of city workers and signed, ratified, and implemented a new collective agreement for the city's 1,500 workers.

There are 18 enterprises operating in the government-run FTZ, employing 31,446 workers. There are no special laws or exemptions from regular labor laws in the FTZs. In addition, there are 13 authorized private FTZs, with many more under construction, but the 59 enterprises currently operating in these zones employ some 30,044 workers, for a total of 61,090 workers in all FTZs. Many workers in the FTZs are represented by one of 27 different union organizations associated with 5 different labor confederations; however, less than 10 percent of FTZ workers are actual union members. While some of these unions have real collective bargaining power, others are primarily symbolic. The overwhelming majority of the workers in the FTZs are women. Fifteen thousand workers, or about 25 percent of those in the FTZs, belong to the labor NGO Maria Elena Cuadra Women's Labor Movement (MEC), which has a presence in 95 percent of the factories. While not a union, MEC is a strong independent advocate for the rights of women laborers. Union organizing efforts have encountered strong employer opposition in the FTZs. The Ministry of Labor and the management of the government-owned corporation that oversees the FTZs have worked, with some success, to settle the resulting labor conflicts.

In May, the Ministry of Labor ruled that King Yong, a Taiwanese company in the Free Trade Zones, violated the law when it fired employees in March and April for attempting to organize a CST branch. The company insisted that it had operated within the law, and the case was pending before the courts at year's end.

In December, the CST filed a series of complaints with domestic and international human rights and labor organizations alleging that between August and November the Ministry of Labor colluded with the management of the FTZ garment factory Nicotex to deny legal status to a CST branch in the factory. According to the complaint, the Ministry delayed the granting of legal status to the union and provided management with a list of employees who had signed documents for the formation of the union. The company then allegedly pressured dozens of would-be union members to renounce their signatures, leaving the union with insufficient members to qualify for legal recognition. When the Ministry subsequently denied the union legal status, the company fired its directors and several dozen other workers. The Ministry denied the charges of collusion, and the case was unresolved at year's end.

The dispute between union organizers and management at the FTZ garment factory Presitex that began in 2003 continued throughout the year. Several suits and counter-suits between the union leaders and the company remained pending before the courts, and the CST took the case to the ILO, which had not made any pronouncement by year's end.

The November 2003 lawsuit filed by the CST against KB Manufacturing in Granada for unpaid overtime between 1999 and 2002 remained pending at year's end. The CST and the company were negotiating the issue as part of their efforts to reach a collective agreement on wages and working conditions.

Fines levied by the Ministry of Labor against employers violating the Labor Code did not serve as effective deterrents. The maximum fine is only $620 (10,000 cordobas), and there is no collection mechanism; companies rarely paid the penalty assessed.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor but does not specifically address forced or compulsory labor by children, and such practices occurred (*see* Section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Constitution provides for the protection of children's rights and prohibits child labor that can affect normal childhood development or interfere with the obligatory school year; however, child labor is a problem. Comprehensive labor legislation protects children up to the age of 18. The Constitution also provides protection from any type of economic or social exploitation. The law prohibits child labor in areas such as mines and garbage dumps and imposes heavy fines for illegal employment. Children from 14 to 16 years of age may work legally with parental permission. The law limits the workday for such children to 6 hours and prohibits night work. In October 2003,

the President signed an amendment to the labor Code to strengthen its child labor provisions. The new law made it more difficult to obtain permission for children aged 14 to 16 to work, raised fines for violators, and permitted inspectors to close facilities employing child labor. However, because of the economic needs of many families, a cultural legacy of child work among peasants, and lack of effective government enforcement mechanisms, child labor rules rarely are enforced except in the small formal sector of the economy.

The Government reported that child labor occurred in both urban and rural areas. The majority worked in the informal sector, often for family ventures. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging. The Ministry of Labor continued to report that some children were forced to beg by their parents, and that some parents rented their children to organizers of child beggars. Thousands of children also spent their days scavenging in garbage dumps, in an attempt to salvage items to use and sell. In rural areas, children worked on farms and in abandoned mines. Child prostitution was a serious problem (*see* Section 5).

The ILO, foreign governments, and a wide variety of domestic and international NGOs worked with the Ministries of Labor and the Family to curb the most egregious cases of child labor and get the children back to school. Some of these programs targeted children working in garbage dumps and coffee farms and shifted thousands of children from work to school or prevented them from going to work in the first place.

e. Acceptable Conditions of Work.—The statutory minimum wage is set through tripartite (business, government, and labor) negotiations and must be approved by the National Assembly. Each key sector of the economy has a different minimum wage, which must be reviewed every 6 months. A new minimum wage scale took effect in May, raising the minimum wage by 8 to 10 percent, varying by sector. As a comparison, inflation for the year was 9.8 percent. The majority of workers earned well above the statutory minimum rates. By sector, the minimum monthly wage was as follows: Agriculture, $41.53 (669.30 cordobas) plus food; fisheries, $64.34 (1,036.6 cordobas); mining, $77.73 (1,251.55 cordobas); industrial manufacturing, $55.74 (897.55 cordobas); electric, gas, and water utilities $79.62 (1,282.02 cordobas); construction, $98.01 (1,578 cordobas); restaurants and hotels, $60.12 (968.59 cordobas); transportation, $79.62 (1,282.02 cordobas); banking, $98.01 (1,578.04 cordobas); community and social services, $60.12 (968.59 cordobas); and central and municipal government (includes health and education employees), $54.72 (881.10 cordobas). The national minimum wage did not provide a decent standard of living for a worker and family. In every sector, the minimum wage falls below the $141 (2,065 cordobas) that the Government estimates an urban family must spend each month for a basic basket of goods.

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly. This provision was routinely ignored, although employers claimed that workers readily volunteered for these extra hours for the extra pay. The Code established severance pay at from 1 to 5 months, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process that requires employers to demonstrate proof of worker misconduct. The Code also established an employer's obligation to provide housing to employees who are assigned temporarily to areas beyond commuting distance.

The Labor Code seeks to bring the country into compliance with international standards and norms of workplace hygiene and safety, but the Ministry of Labor's Office of Hygiene and Occupational Security lacks adequate staff and resources to enforce these provisions and working conditions often do not meet international standards. Workers in some factories in the free trade zones have complained of poor working conditions, being forced to work unpaid overtime and of being told when they may and may not go to the toilets. During the year, the Ministry of Labor, in conjunction with NGOs and foreign donors, provided training and resources to workers and employers in identifying and resolving workplace hygiene and safety issues. The Code gives workers the right to remove themselves from dangerous workplace situations without jeopardizing their continued employment. Between January and August, 12 workers died as a result of work-related accidents. Inspectors from the Ministry of Labor investigated 7 of the 12 cases, but no results of these investigations were available.

The enactment of a 2001 law aimed at foreign companies prompted the filing of lawsuits on behalf of thousands of individuals claiming to be banana workers affected by exposure to the pesticide DBCP in the 1970s and 1980s when its use was legal. In 2002, a judge issued the first decision on one suit, a $489 million (7.599

billion cordobas) judgment on behalf of 583 plaintiffs. None of the companies named as defendants participated in the short evidentiary process that led to this judgment, and the court, citing the law, refused to hear their legal arguments or accept contrary evidence. The court also apparently did not consider a non-binding opinion circulated earlier that year by the acting Attorney General that cited apparent constitutional flaws in the law. In May 2003, the claimants filed suit in a foreign court seeking enforcement of the decision. In October 2003, the court judge dismissed the case. In December 2003, one of the companies named as defendants filed suit in a foreign court against some of the plaintiffs, alleging abuse of power and malicious prosecution. The companies have alleged that the plaintiffs have falsified their numbers and their medical records. In February, more than 1,000 individuals claiming to be former banana workers staged a march to the capital to draw attention to their claims. At year's end, several hundred lawsuits claiming over $10 billion (155.4 billion cordobas) in damages were pending in the country's courts and in foreign courts.

PANAMA

Panama is a representative democracy with an elected executive composed of a president and two vice presidents, an elected 78-member unicameral legislature, and an appointed judiciary. In May, voters elected President Martin Torrijos of the Democratic Revolutionary Party (PRD) in generally free and fair elections, observed by domestic and international organizations. The Constitution provides for an independent judiciary; however, the judicial system was subject to corruption and political manipulation.

The Panamanian Public Forces consist of the Panamanian National Police (PNP), the National Maritime Service (SMN), the National Air Service (SAN), and the Institutional Protection Service (SPI). A 1994 constitutional amendment formally prohibits the establishment of a permanent military, although it contains a provision for the temporary formation of a "special police force" to protect the borders in case of a "threat of external aggression." The Ministry of Government and Justice oversaw the PNP, the SMN, and the SAN; the Ministry of the Presidency supervised the SPI. Security forces responded to civilian authority, had civilian directors, and had internal review procedures to deal with misconduct. There were occasional reports that some members of the security forces committed human rights abuses.

The market-based economy, which uses the U.S. dollar as its currency (calling it the Balboa), was based primarily on a well-developed services sector that accounted for approximately 80 percent of gross domestic product. The country had an estimated population of 3.1 million. While the economy experienced 0.8 percent real growth in 2002, it grew 4.1 percent in real terms in 2003. In November, the legislature's budget commission estimated growth for the year at 6.1 percent. Unemployment was officially estimated at 12.8 percent for 2003; however, private economists believed that it may be several points higher. Through June, inflation averaged 0.45 percent.

The Government generally respected the human rights of its citizens; however, despite some improvements, there continued to be serious problems in several areas. Overall prison conditions remained harsh, with reports of abuse by prison guards. Prolonged pretrial detention was a problem. The judiciary was subject to corruption and political manipulation, and the criminal justice system was inefficient and often corrupt. Despite these shortcomings, the Supreme Court ruled repeatedly that the statute of limitations would not bar cases involving killings and disappearances during the 1968–89 military dictatorship. The media were subject to political pressure, libel suits, and punitive action by government officials. Women held some high positions in the Government, including the presidency for most of the year; however, discrimination against women persisted, and violence against women remained a serious problem. Trafficking in persons was a problem despite improved anti-trafficking laws and publicity and a government crack down on traffickers. Discrimination against indigenous people and minorities continued to be a problem. The Government improved its treatment of refugees and its attention to the persons with disabilities. Child labor was a problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, security forces were suspected of unlawfully killing several persons during the year. At year's end, the PNP's Professional Responsibility Office (DRP) reported that it had opened and was investigating four cases of killings involving PNP officers during the year. The media reported at least one case of spousal killing by a PNP officer (*see* Section 5). At year's end, the investigation continued into the 2002 killing of a 13-year-old indigenous Wounaan girl, Aida (or Ayda) Chirimia, in the Darien village of Biroquera, reportedly within the local national police compound. At year's end, one PNP officer remained dismissed in connection with the killing.

In August, the Fourth Superior Prosecutor requested that two off-duty PNP officers be tried for homicide in the 2001 killings of two men whose bodies were found on the beach in Punta Chame. In October, the Second Justice Tribunal set December 2005 as the start of the trial. The officers remained in jail.

In August, former President Moscoso signed a document in which the country accepted responsibility before the Inter-American Commission on Human Rights (IACHR) for certain crimes committed during the 1968–89 military dictatorship, thereby opening the possibility of a dialog regarding compensation between the Government and the families of victims. In October, the Torrijos administration informed the IACHR that it interpreted this dialog as a mechanism to work individually with those victims' families who had exhausted all legal remedies before the country's courts.

In March, the Supreme Court overturned the decision of the Second Superior Tribunal by ruling that the prosecution of members of the former National Guard in the death of leftist leader Heliodoro Portugal was not barred by the statute of limitations. Heliodoro Portugal disappeared in 1970. In 2000, his family identified his remains by DNA as those found in an unmarked grave on the grounds of a former military base in Panama City. At year's end, the Second Superior Court ordered the detention of Ricardo Garibaldo for his involvement in the disappearance and death of Portugal and the 2002 petition before the IACHR regarding the Portugal case remained pending.

As of September, the Office of Truth Commission Continuation, originally established as the Truth Commission for 6 months in 2001 to investigate killings and disappearances believed to have occurred under the 1968–89 military dictatorship, solicited the opening or reopening of 16 cases and continued to pursue 17 other cases of killings during the 1968–89 military dictatorship.

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

As of September, the Office of Truth Commission Continuation solicited the opening or reopening of 18 cases and continued to pursue 7 other cases of disappearances during the 1968–89 military dictatorship.

During the year, there were no reports of kidnapping, rape, or harassment by Colombian insurgents in Darien or Kuna Yala Provinces.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and the public security forces generally performed in a professional and restrained manner. However, prison guards occasionally abused inmates, and according to the PNP's DRP, as of mid-August, there were 16 reported cases of police abuse against prison inmates.

During the year, police generally exercised restraint in their treatment of street protesters (*see* Section 2.b.).

Prison conditions remained harsh and, in some cases, life threatening, due largely to budget constraints. By December, the prison system, which had an official capacity of 7,348 persons, held 11,517 prisoners. Most prisons were dilapidated and overcrowded. Many of the problems within the prisons resulted not only from obvious overcrowding but also from the lack of separation of inmates according to the type or severity of the crime committed. Pretrial detainees often shared cells with sentenced prisoners due to lack of space.

Medical care for prisoners was inadequate. AIDS, tuberculosis, and other communicable diseases were common among the prison population. During the year, the La Joya and La Joyita prisons continued to have water shortages. The European Union funded some legal, medical, and dental staff for prisons, and there was at least one doctor in each major facility. As of mid-August, 8 inmates had died.

There were some improvements in the prison system. The General Penitentiary Inspection Directorate (DGSP) hired 75 new civilian corrections officers (or "custodians") and began using all civilian custodians within El Renacer prison. In

August, the Department of Corrections closed the Pacific island penal colony of Coiba, where conditions had been particularly harsh.

The DGSP largely depended on 1,425 PNP officers to supply both internal and perimeter security at all prisons. There were only 440 custodians for the entire prison system. As a result, regular PNP officers still were used to fill staffing gaps. PNP officers sometimes were untrained for prison duty and found the assignment distasteful, which contributed to tension and abuses within the prison system. Civilian custodians handled inmates within Nueva Esperanza, Tinajitas, El Renacer, and the central women's prison, which used only female officers. The DGSP did not have authority to discipline prison guards with criminal or civil sanctions; only the PNP disciplinary board could sanction a PNP agent or a custodian.

Abuse by prison guards, both PNP and civilian, was a recurrent problem. Police officials acknowledged that they received and investigated 16 cases as of mid-August.

The main prisons in Panama City included La Joya (a maximum-security facility), La Joyita, Tinajitas, the Feminine Center (women's prison), and the Juvenile Detention Center. An additional facility, El Renacer, held inmates generally accused of less serious crimes. In March, the Ombudsman's Office recommended that the Government begin the process of closing La Chorrera prison because of the overcrowded prison's extremely unsanitary conditions. By August, the Government had reduced the number of prisoners in La Chorrera from 548 to 379.

In Nueva Esperanza prison in Colon province, both male and female pavilions had separate sections for inmates convicted of administrative felonies and those convicted of violent crimes.

There were prisons of significant size in David, Santiago, and other towns. Small jails attached to local police stations around the country sometimes held prisoners for the entire length of their sentences, but the police who guarded them lacked the necessary custodial training to prevent abuses.

Female prisoners were held separately from male prisoners, and juveniles were held separately from adults. Throughout the country, conditions at women's prisons and at juvenile detention centers were noticeably better than at adult male prisons. However, female prisoners, especially those in the primary detention area, reportedly suffered from overcrowding, poor medical care, and lack of basic supplies for personal hygiene.

There was one modern juvenile detention center near Panama City. Juvenile pretrial and custodial detention centers throughout the country suffered from inadequate resources to provide for education or adequate supervision of children, although a nongovernmental organization (NGO) provided secondary school instruction to some minors in custodial detention.

The law and the Penal Code provide for conditional release programs for inmates charged with minor offenses who have served a substantial part of their sentence; however, this provision was not implemented consistently in practice. During the year, conditional releases decreased due to resistance from the autonomous Attorney General's office.

The Government generally allowed prison visits by independent human rights observers. The Ombudsman's office had a well-established prison visit program, and the Government generally allowed staff from the Ombudsman's office to speak with prisoners without monitoring. Prisoners expressed fear of retaliation if they complained. Justicia y Paz, the Catholic Church's human rights monitoring group, brought prison abuses to the attention of the authorities. The Association of New Men and Women of Panama, a gay and lesbian rights group, noted difficulty in gaining access to prisoners to provide AIDs education and training.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Exceptions were permitted when an officer apprehended a person during the commission of a crime, or when an individual interfered with an officer's actions. The Constitution also provides that suspects are to be brought promptly before a judge; however, lack of prompt arraignment remained a problem. The law requires the arresting officer to inform the detainee immediately of the reasons for arrest or detention and of the right to immediate legal counsel. Police arrested and detained children for minor infractions during neighborhood sweeps (*see* Section 5).

The PNP falls under the civilian authority of the Minister of Government and Justice. There were approximately 15,000 police officers with an estimated total budget of $147,820,000. Although its primary mission was law enforcement, the PNP was detailed for prison and border security. The Judicial Technical Police (PTJ), a semiautonomous body with leadership appointed by the Supreme Court, was a separate branch of law enforcement under the Attorney General's office and

performed criminal investigations in support of public prosecutors. The law providing the legal basis for the PNP includes specific guidelines for the use of force, including deadly force; requires that police officers respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior. Although not all PNP personnel were trained in the use of force, the PNP provided more training during the year. In June, the Human Rights Ombudsman's office hosted a 3-day course on human rights and penitentiary procedures for PNP agents working in prisons.

The PTJ and the PNP have offices of professional responsibility that act as internal affairs organs to hold officers accountable for their actions. Both have staffs of independent investigators as well as administrative authority to open internal investigations. In both organizations, a defined legal process is followed in which, upon completion of the process, the director of the PTJ or the PNP review panel, as appropriate, has the final authority to determine the disposition of each case.

The PNP deputy director and the secretary general addressed human rights problems that arose in the police force. The offices of professional responsibility were well known in the community, and the rate of complaints remained generally constant in the PTJ office. As of late September, the Ombudsman received 58 complaints against the police for abuse of authority (*see* Section 4). At year's end, the PNP Office of Professional Responsibility received 543 complaints (including 132 cases of physical mistreatment), an average of 10 complaints per week, an increase from 9 per week in 2003. Through mid-August, the office penalized 60 officers. Penalties included reduction in rank, and in severe cases, criminal prosecution. There were 16 dismissals as of mid-August.

The PTJ received complaints from the public, and officers could make anonymous complaints of corruption and other problems. By early September, the PTJ Office of Professional Responsibility had conducted 136 investigations, which resulted in the dismissal of 17 agents. The majority of open cases were for mishandling official property such as misplacing guns or radios (53), misconduct or improper behavior (25), corruption (15), abuse of authority (15), and negligence (10).

Corruption among police officers remained a problem. In some cases, PNP and PTJ directors enforced other disciplinary measures against officers with proven involvement in illicit activities; however, both organizations only reacted to egregious abuses, due to a lack of staff, independence, and institutional priority. In May, PNP narcotics officers arrested the entire PNP uniformed shift at the substation in San Carlos, including the police captain, for off-loading boats from Colombia that carried illegal narcotics.

The Constitution provides for judicial review of the legality of detention and mandates the immediate release of any person detained or arrested illegally. The Constitution prohibits police from detaining suspects for more than 24 hours without bringing them before a judge. Under the law, the preliminary investigation phase may last from 8 days to 2 months and the follow-on investigation phase another 2 to 4 months, depending on the number of suspects. The courts frequently granted extensions of time limits, leaving those accused in detention for long periods without having been charged formally. The law permits these extensions; however, many legal authorities (including court officials) criticized judges for excessive use of this measure. While the law provides for bail, in practice judges often declined to grant bail.

Extended pretrial detention continued to be one of the most serious human rights problems, due in part to the elaborate notification phase in criminal cases. According to government statistics, by December, 6,701 prisoners, or about 58 percent of the prison population, were pretrial detainees. The average period of pretrial custody was 24 months, and pretrial detention in excess of the maximum sentence for the alleged crime was common.

Legal alternatives to prison existed; however, they were not implemented widely. Options such as house arrest were used in some cases involving the elderly or minors but required that the defendants have access to, and understanding of, their legal options. There was a limited program of work or study in lieu of some sentences. As of mid-August, the Government had granted 35 work permits and 14 school permits to prisoners.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary was susceptible to corruption and outside influence, including manipulation by other branches of government.

The President appoints 9 Supreme Court magistrates to 10-year terms, subject to National Assembly ratification. The Supreme Court magistrates appoint appellate (Superior Tribunal) judges, who, in turn, appoint circuit and municipal court judges in their respective jurisdictions. Judicial appointments are supposed to be made

under a merit-based system, but the top-down appointment system lent itself to political influence and undue interference by higher-level judges in lower-level cases in which they often had no jurisdiction.

At the local level, mayors appoint administrative judges, or "corregidores," who exercise jurisdiction over minor civil cases and who hold wide powers to arrest and to impose fines or jail sentences of up to 1 year. This system continued to have serious shortcomings outside of Panama City: Defendants lacked adequate procedural safeguards; administrative judges outside of Panama City usually were not attorneys; many had not completed secondary education; and some were corrupt. In practice, appeal procedures were nonexistent. As of October, the number of local sentences imposed by corregidores in Panama City alone was 1,152. Affluent defendants still tended to pay fines while poorer defendants went to jail, which contributed to prison overcrowding (*see* Section 1.c.).

The 1998 judicial reform program started by the Inter-American Development Bank and the Government finished at year's end.

The Constitution provides that persons charged with crimes have the right to counsel, to be presumed innocent until proven guilty, to refrain from incriminating themselves or close relatives, and to be tried only once for a given offense. If not under pretrial detention, the accused may be present with counsel during the investigative phase of the proceeding. Judges may order the presence of pretrial detainees for the rendering or amplification of statements, or for confronting witnesses. Trials were conducted on the basis of evidence presented by the public prosecutor. Under limited circumstances, the law permits trials without the accused being present. The Constitution and the Criminal Procedure Code provide for trial by jury at the defendant's election, but only in cases where at least one of the charges is murder.

The Constitution obliges the Government to provide public defenders for the indigent. However, many public defenders were appointed late in the investigation, after the prosecutor already had evaluated the bulk of the evidence and decided either to recommend trial or to dismiss the charges. Public defenders' caseloads remained extremely high, averaging some 550 cases per attorney per year. Thirteen additional public defenders have been hired since 1992; there were 49 nationwide, with a similar number of assistants. In 2003, the Government appointed seven prosecutors to comply with a new law regarding delinquent minors. A heavy workload continued to undermine the quality of representation, with many prisoners meeting their public defender for the first time on the day of trial. The inadequate number of public defenders also continued to cause a backlog in trial dates, which contributed to the problem of prison overcrowding.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution provides for the inviolability of the home, private papers, and telephonic communications, and the Government generally respected these rights in practice; however, there were complaints that in some cases, law enforcement authorities failed to follow legal requirements and conducted unauthorized searches.

In an effort to prevent unauthorized searches, the Public Ministry placed a representative, whose job was to approve searches, in each of the PTJ's divisions.

In November, a constitutional reform signed by President Torrijos and ratified by the National Assembly went into effect, permitting wiretapping with a court order issued by a competent court that identifies a specific objective.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, the Government sometimes did not respect these rights in practice, and at times the media were subject to political and economic pressure. The Government and public figures made frequent use of libel and "disrespect for authority" laws to confront and attempt to intimidate journalists who allegedly were "irresponsible" or who besmirched the honor of a particular government institution or leader. During the year, 10 journalists were charged with criminal libel according to the Ombudsman's office.

There was an active and often adversarial press and a broad range of print and electronic media outlets, including newspapers, radio and television broadcasts, and domestic and foreign cable stations. Seven national daily newspapers, 5 national broadcast television stations, 2 educational television stations, 1 religious broadcast television station, and more than 120 radio stations provided a broad choice of informational sources; all were privately or institutionally owned except for 1 government-owned educational television station. The law prohibits newspapers from holding radio and television concessions, and vice versa. The media carried a wide variety of political commentaries and other perspectives, both local and foreign.

In the run-up to the national elections in May, government advertising continued to be distributed along partisan lines and clearly favored certain newspapers despite their modest circulation. In October, the Torrijos administration centralized the purchase of advertising for the central government's non-autonomous entities under the Secretariat of Communication, which began using its discretion to purchase advertising on the basis of circulation, purchasing advertising in all the major newspapers for some topics.

Domestic and foreign journalists worked and traveled freely throughout the country. The law requires directors and deputy directors of media outlets to be citizens.

A 1999 law eliminated "gag laws" dating from the military dictatorship; however, legal actions against many journalists remained pending, and vestiges of the former gag laws still provided a means for charging journalists with defamation. The IACHR, the Inter-American Press Association, Reporters Without Borders, and other groups criticized these measures as efforts to censor the press. A 2002 report by the Ombudsman's office found that government officials brought 52 percent of the criminal libel suits against journalists and the media. In November, Constitutional reforms removed judges' ability to jail or fine persons for contempt without a trial, but did not reform criminal libel.

In March, police arrested editorialist and former president of La Prensa, Roberto Eisenmann and charged him with criminal libel in a case brought against him by the Attorney General. The charges stem from a January 30 column in which Eisenmann accused Sossa of "protecting criminals and filing charges against journalists."

In August, former President Mireya Moscoso included many journalists, including Roberto Eisenmann, among a list of individuals pardoned for various crimes. This pardon reduced significantly the number of journalists charged with libel and related crimes. At year's end, as many as 30 cases against journalists continued, including that of former Agricultural Minister Linnette Stanziola Apolaya against journalists Rafael Berrocal and Sady Tapia.

The press laws provide for the establishment of a censorship board, which monitored radio transmissions and had the authority to fine stations that violated norms regarding vulgar, profane, or obscene language. Despite occasional public protests over the content of radio programs, no stations were fined.

The Government did not restrict access to the Internet.

In March, the Disciplinary Commission of the University of Panama summoned Law and Politics Professor Miguel Antonio Bernal to provide a statement on April 6 in connection with Bernal's public criticism of the university rector and university academic policies. On April 6, Bernal left the hearing site before the hearing began after he received shouted insults from more than 20 administration personnel. In August, President Moscoso included Bernal on her presidential pardons list. At year's end, Bernal continued in his position at the university.

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

In October, over 28 persons were injured in Bocas del Toro, including 24 police officers, when anti-riot police attempted to open roads closed by residents protesting the local private utility company. The 22 protestors initially detained in the incident claimed after their release that police brutally beat them in detention and media published pictures of their injuries. Preliminary investigation by the Ombudsman's office indicated that protestors tied up police, took and set fire to their equipment, and tried to set fire to officers. Cases filed with the Public Ministry by both sides continued at year's end.

c. Freedom of Religion.—The Constitution provides for freedom of religion provided that "Christian morality and public order" are respected, and the Government generally respected freedom of religion in practice.

The Constitution prohibits clerics from holding public office, except as related to social assistance, education, or scientific research. However, Catholicism enjoyed certain state-sanctioned advantages over other faiths. For example, the Constitution mandates that Catholicism be taught in public schools, although parents had the right to exempt their children from religious instruction.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. A 9:00 p.m. curfew for unaccompanied minors in the Panama City area remained in effect, and enforcement became strict under the outgoing administration's Operation Hard Hand policy.

The Constitution prohibits exile, and there were no reports of forced exile.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government sometimes granted refugee status or asylum. A 1998 decree grants protection to all persons entering the country due to "state persecution based on race, gender, religion, nationality, social group, or political opinion." While the 1998 decree provides for a meeting every 3 months to determine status, by August the Moscoso Government's Refugee Commission only met once, reviewed approximately 10 refugee cases, and granted asylum to 2 persons. The Torrijos Government's Refugee Commission received training from the United Nations High Commissioner for Refugees (UNHCR) and met twice within 2 months and reviewed 32 cases, granting asylum in 14 cases and deferring 8 to permit the presentation of additional evidence.

The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees. In April, the UNHCR and the Government agreed to the establishment of a permanent UNHCR office in the country, and the Government granted the UNHCR unimpeded access to refugees and UNHCR project sites. The UNHCR operated out of a Panama City office and a regional office in Darien to monitor and to aid displaced Colombians.

The 1998 decree only grants 2 months' temporary protection to "displaced persons" in the case of a large influx. The UNHCR criticized the decree because it put persons at risk for forced repatriation within a few weeks of entering the country, without analysis of their possible refugee status. In practice, the Government did not enforce the 2-month time limit.

According to the UNHCR, there were approximately 821 Colombians under temporary protective status in the country. The Government did not permit displaced Colombians to move or work outside of their assigned villages. The Government generally remained reluctant to classify displaced Colombians as refugees, but began to work with the Government of Colombia and UNHCR on steps to regularize the status of Colombians displaced for several years under other immigration categories. Some Colombians have lived in the country for years without formal refugee status. In Jaque, central Darien, and Kuna Yala, the Government, along with the UNHCR, provided displaced Colombians with food, medical care, and access to public services, including schools and clinics. The Catholic Church and NGOs assisted the displaced Colombians with infrastructure and income generating projects. The International Committee of the Red Cross provided some limited assistance to the approximately 40–50 displaced Colombians living in the remote Alto Tuira border area. In February, the Government, the Colombian Government, and the UNHCR successfully conducted a voluntary and transparent repatriation of 24 Colombians from Boca de Cupe.

The authorities continued to refuse entry to Colombians who arrived by air and could not show that they had at least $500; however, according to UNHCR, Colombians arriving by air to claim refugee status generally had $500.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for direct popular election by secret ballot of the President, the vice president, legislators, and local representatives every 5 years. Naturalized citizens may not hold certain categories of elective office. The independent Electoral Tribunal arranges and supervises elections. The Government respected the rights of its citizens to join any political party, and vote for candidates of their choice. However, the law requires new political parties to meet strict membership and organizational standards to gain official recognition and participate in national campaigns.

In May, Democratic Revolutionary Party (PRD) presidential candidate Martin Torrijos defeated Solidarity Party (PS) candidate Guillermo Endara, Arnulfista candidate (PA) Jose Miguel Aleman, and Democratic Change (CD) candidate Ricardo Martinelli, winning 47 percent of the popular vote. Domestic and international observers characterized the elections as generally free and fair; however, at least one local contest was marred by reports of vote buying. The PRD gained a majority of 42 seats in the National Assembly.

In November, several constitutional reforms became effective. The reforms required political parties to be structured democratically, permitted independents to campaign for the National Assembly, increased the autonomy of the Electoral Tri-

bunal, and limited the immunity of representatives in the National Assembly by permitting the Supreme Court to prosecute criminal cases against representatives. Beginning in 2009, the reforms would reduce the number of vice presidents from 2 to 1 and cap the number of National Assembly members at 71.

Public perceptions of executive and legislative corruption were consistently high. In the lead-up to the May election, polls identified corruption as one of the greatest national problems. Extensive legislative immunity, granted by the Constitution, continued to hinder judicial follow-up of accusations of corruption against National Assembly members. The Torrijos administration established a National Anti-Corruption Commission under the presidency, audited accounts on an agency-by-agency level, rescinded improperly granted diplomatic passports, dismissed employees for malfeasance, and brought charges against officials for petty corruption.

Immediately upon taking office on September 1, the Torrijos Administration revoked a Moscoso Administration implementing decree that impeded enforcement of the Transparency Law intended to provide public access to information from and about public entities. In May, the Supreme Court had invalidated on constitutional grounds several of the decree's most restrictive articles. In November, the Torrijos administration decreed that cabinet meeting minutes are exempt from public release under the Transparency Law. In late October, the Solicitor General interpreted the Constitution narrowly in advising the Ministry of the Presidency on the disclosure of statements of officials' assets by notaries, indicating that notaries are only authorized to disclose the statements to the Comptroller General, the Ministry of Economy and Finance, and authorities with jurisdiction.

Women held 11 of 78 National Assembly seats. Two women held positions in the 13-member Cabinet under the Torrijos Administration, 2 female judges were on the Supreme Court, and an Afro-Panamanian woman was the Solicitor General. There was 1 Afro-Panamanian in the Cabinet. There were dedicated seats for two Kuna Yala comarca and three Ngobe-Bugle comarca legislators in the National Assembly. In addition to the five dedicated seats, Bocas del Toro elected one Ngobe legislator to the National Assembly. Neither the Madugandi nor the Embera-Wounaan reserve had its own dedicated legislators.

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

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

In November, constitutional reforms went into effect requiring an Ombudsman's Office under the direction of an Ombudsman named by the legislature to a five-year term. Prior to the reforms, the Ombudsman and Ombudsman's office were only authorized by statute. During the year, the Ombudsman's office received complaints from citizens regarding abuses or violations committed by public servants or government institutions, collected information, observed elections, confronted accused public institutions or employees, provided human rights training, and conducted studies to promote international human rights standards. Although the Ombudsman had no coercive authority, he could confront public institutions and employees with their misdeeds. In 2001, the legislature elected attorney Juan Antonio Tejada Espino as Ombudsman for a 5-year term.

As of mid-September, the Ombudsman's office received 652 complaints against the Government. Of this number, 565 were against public institutions (58 of them against the PNP), and 87 were against businesses operating under a government concession. The Ombudsman improved its comprehensive web site and extended office hours for receiving complaints.

As of mid-September, the Office of Truth Commission Continuation solicited the opening or reopening of 16 cases of killings and continued to pursue 17 other cases of killings during the dictatorship (*see* Section 1.a.). As of mid-September, the Office of Truth Commission Continuation solicited the opening or reopening of 18 cases of disappearances and continued to pursue 7 other cases of disappearances during the dictatorship (*see* Section 1.b.). In December, President Torrijos announced that he was not extending funding to the Office of Truth Commission Continuation when it expired at year's end, and that cases of killings and disappearances during the 1968–89 dictatorship would continue to be handled through the judicial process.

Section 5. Discrimination, Societal Abuse, and Trafficking in Persons

The Constitution prohibits discrimination on the basis of race, birth status, social class, sex, disability, or political views. A 2002 law specifically prohibits discrimination and any kind of "right of admission" to any public or commercial establishment

and sets fines from $250 to $1,000. However, societal prejudices persisted. Cases of discrimination were difficult to prove, and legal remedies for victims were complicated, time-consuming, and costly. Many commercial establishments continued openly to operate a "right of admission" policy, which discriminated against dark-skinned persons.

Women.—Domestic violence against women continued to be a serious problem. The Family Code criminalizes rape, spousal rape, and family violence (including psychological, physical, or sexual abuse). Convictions for domestic violence were rare because victims generally chose spousal therapy over prosecution. Abusers were commonly convicted of unintentional killing in cases of spousal death. By October, the PTJ registered 1,167 cases of domestic violence. The PTJ also received 469 cases of rape and 88 cases of attempted rape by October. At year's end, the PNP's DRP reported that its office investigated 38 cases of domestic violence and 5 cases of rape committed by officers during the year. The media reported at least one case of spousal killing by a PNP officer (*see* Section 1.a.).

In Panama City, the Support Center for Abused Women (CAMM) operated one temporary shelter for abused women and children funded by the Government and the European Union, but the shelter did not serve women abused outside of the domestic context. CAMM also provided domestic violence victims with health and legal services, counseling services for women and their domestic abusers, and a hotline.

Spouses or other family members frequently were the perpetrators. The Foundation for the Promotion of Woman (FUNDAMUJER) and the Center of Colon Women (MUCEC), among other women's advocacy groups and government agencies, operated programs to assist victims of abuse and to educate women on their legal rights.

Trafficking in women was a problem (*see* Section 5, Trafficking).

The law prohibits sexual harassment in cases of established employer/employee and teacher/student relations. The extent of the problem was difficult to determine because convictions for sexual harassment were rare and pre-employment sexual harassment was not actionable.

The law prohibits discrimination on the basis of sex. The Family Code recognizes joint or common property in marriages. However, insufficient resources hampered government efforts to enforce the code's provisions effectively. According to a Supreme Court justice, competent caseload management would require 80 family judges; however, only 16 of the legally mandated 20 family judges served during the year due to lack of resources.

The Constitution mandates equal pay for men and women in equivalent jobs, but wages paid to women were, on average, 30 to 35 percent lower and increased at a slower rate, according to a 2002 study. There were credible reports of irregular hiring practices based upon age and "appearance." Female politicians noted discrimination within their own parties, where they were generally given the least desirable ballot positions during party primaries.

Through the National Directorate of Women, the Ministry of Women, Youth, Family, and Childhood promoted equality of women in the workplace and equal pay for equal work, attempted to reduce sexual harassment, and advocated legal reforms. A number of private women's rights groups concentrated on disseminating information about women's rights, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms.

Prostitution was legal and regulated. Studies of prostitutes over the past decade, including a 2002 International Organization of Labor (ILO report), point to domestic violence, initiation of sexual relations before age 18, poverty, broken homes, and teenage maternity as the major risk factors for prostitution. In August, the Comunidad Apostolica Hosanna began a program to remove women from prostitution and provide them with social services. At year's end, the program had removed two women from prostitution and was working with eight other women.

Children.—The Government is committed to children's rights and welfare. Education is compulsory through the 9th grade and the Constitution establishes free public education through high school. Children did not always attend school due to traditional attitudes, financial and economic constraints, lack of transportation or secondary schools, and insufficient government resources. The problem was most extreme in Darien Province and among indigenous groups. According to the 2000 Census, 65 percent of children nationally between the ages of 15 and 19 had some schooling beyond sixth grade, but only 18 percent of children ages 15–19 had schooling beyond sixth grade in the Embera and Ngobe-Bugle comarcas.

The Government furnished basic health care for boys and girls on an equal basis through local clinics run by the Ministry of Health, but clinics were difficult to reach from rural areas and often lacked medicine. A central children's hospital in Panama City operated with government funds as well as private donations. In November and

December, the Government held health fairs to provide children with vaccinations and medical checkups. According to the Government, from September to December, the Ministry of Health also provided 75,000 persons with medical, dental, and optometric care through health caravans that reached rural and indigenous areas.

By October, the PTJ registered 364 cases of child abuse and neglect. Sexual abuse, including incest, accounted for 135 of these cases. Lack of reporting remained a problem, often because of parental involvement or complicity. Sexual abuse of children was reported in both urban and rural areas, as well as within indigenous communities. Neglect of children also was a problem. Malnutrition and inadequate medical care were generalized problems, most severe among rural indigenous groups.

Inadequate resources and training available to the family courts continued to result in controversial decisions, including the return of children to abusive situations. By July, the 5 juvenile penal courts in Panama and Colon provinces reported 1,241 new cases against juveniles. Gang recruitment of minors by young adults was an increasing problem. Police arrested and detained children for minor infractions during neighborhood sweeps.

Trafficking in children and child labor were problems (*see* Sections 5, Trafficking and 6.d.).

Trafficking in Persons.—The law prohibits trafficking in women and children; however, there were reports that persons were trafficked to, from, or within the country. The magnitude of the problem was difficult to determine because the country was a transit point for illegal economic migrants who were not forced into prostitution or debt bondage but used similar smuggling routes. Both the Ministry of Government and Justice and the autonomous Attorney General's office had key roles in combating trafficking. The Ministry of Youth had a strong role in the prevention and the protection of victims.

On March 31, the Government enacted a law that included stronger penalties, better legal definitions of trafficking and pornography, and proscriptions against Internet predation and the promotion of sex tourism. The law also enhanced investigation capability by eliminating the need to initiate a complaint for an investigation, delaying the running of the statute of limitations in cases involving minors, and permitting undercover operations and the monitoring of suspects' computers in sex crime cases. Unfortunately, the autonomous Attorney General failed to convene CONAPREDES, the institution under the law that would have provided additional funding to combat trafficking and to provide victim's assistance. However, during the year the PTJ created a specialized section for child sexual exploitation and the PTJ and Public Ministry extended anti-trafficking efforts to the provincial level.

At year's end, the PTJ's specialized section had begun 24 formal investigations and transferred 7 cases to the Prosecutor's office for prosecution. The Prosecutor's office also initiated its own investigations, including a case involving suspected trafficking to Europe. Information sharing between the Government and neighboring and other countries increased, with the PTJ receiving three leads from Interpol and six leads directly from other countries.

The country was a destination point for trafficked women. There was some evidence that rural children were trafficked internally to work as domestic servants in urban areas. Colombia was the primary country of origin for trafficked women, followed by the Dominican Republic. Although many Colombians and Dominicans came willingly to the country apparently intending to become prostitutes, anecdotal evidence suggested that some were forced to continue as prostitutes.

The country was a transit point for Colombian sex workers to other Central American countries and the United States. Some of these women were assumed to be trafficking victims, but evidence of total numbers was lacking. Alien smuggling was a more prevalent problem. Most aliens transiting the country using smuggling networks were Ecuadorian, Peruvian, Colombian, Chinese, and Indian nationals who arrived from Ecuador, Peru, or Colombia in route to the United States. There was limited anecdotal evidence that some were trafficked for debt bondage, including Chinese debt bondage within Panama.

The PNP and the Immigration Department conducted raids every 2 to 3 months on bars and brothels. By mid-November, the Immigration Department under the Torrijos Administration had conducted raids on two nightclubs and initiated deportation proceedings for 30 Colombians working illegally as prostitutes. For the first time, the Immigration Department also fined the noncompliant clubs. Immigration officials and the PNP also conducted ad-hoc investigations and raids based on tips and other leads but did not generally work cooperatively with the PTJ Sex Crimes Unit. The Immigration Department also suspended issuance of the "alternadora" visa, believed linked to the prostitution of Colombian sex workers.

Commercial sexual exploitation of minors was a problem. ILO studies indicated there were at least 100 minors who were victims of commercial sexual exploitation. Commercial sexual exploitation was primarily an internal issue except that perpetrators included foreigners, and there was limited evidence of international trafficking networks of minors to or through Panama. NGO and government efforts in prevention and education were limited by lack of resources and coordination problems. During the year, the Government prosecuted and convicted several persons for prostituting children.

The March 31 law includes provisions to increase protection of trafficking victims from traffickers and specifies that victims will not be criminally responsible for prostitution or immigration crimes. The law also provides for indemnification of victims of trafficking, even if they return to their native country for costs of medical and psychological treatment, temporary housing, legal fees, and emotional suffering.

In November, the Ministry of Youth, the Ministry of Government, and the First Lady's Office launched a campaign to combat child sexual tourism. In November, the Ministry of Youth held a workshop with 40 local officials in the Darien province and a forum with 124 participants in Panama City on child commercial sexual exploitation. In December, the Ministry of Youth also trained 16 officials in Veraguas province in combating child commercial sexual exploitation. The Ministry of Youth provided shelter and other services to victims of commercial sexual exploitation, using substitute families, its own shelter, and the shelter of a nongovernmental organization it subsidized.

Persons With Disabilities.—There was substantial discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services, but the Torrijos administration took steps to decrease discrimination. The law mandates access to new or remodeled public buildings for persons with disabilities; however, the Government generally failed to enforce these provisions in practice.

While the 2000 Census counted 52,197 persons with disabilities, the new National Secretariat for Social Integration of the Disabled found estimates by international organizations of 280,000 disabled persons probable. The Secretariat coordinated and provided technical assistance to government and civil society efforts to decrease discrimination against and increase inclusion of the disabled. In October, the Government installed a Council for the Social Integration of the Disabled to support the Secretariat. The Council involved civil society and more ministries (such as the Ministry of Public Works) and worked to include the needs of the disabled in ministerial budgets. The Ministry of Education was responsible for educating and training minors over the age of four with disabilities, while the Ministry of Women, Youth, Family, and Childhood provided training to children under four and protected the rights of the disabled. Children with disabilities generally were separated from the general population; however, the law requires schools to integrate children with special needs into the student body.

The Ministry of Labor was responsible for placing workers with disabilities in suitable jobs, but placement remained difficult despite a 1999 law requiring mandatory employment of at least two percent disabled personnel. Persons with disabilities also tended to be paid less than employees without disabilities for performing the same job.

Panama City's building code requires that all new construction projects meant to serve the public be accessible to persons with disabilities, with fines for the public sector from $100 to $500 for noncompliance. A national law with similar requirements for new construction projects generally was not enforced, but the Secretariat began a campaign to increase voluntary compliance. Awareness of disability issues increased under the Torrijos administration, and commercial establishments increasingly provided and enforced handicapped parking spaces. However, basic services such as handicapped-accessible sidewalks and bathrooms were largely unavailable.

National/Racial/Ethnic Minorities.—The country is racially diverse, with the majority of the population mestizo, Afro-Panamanian, or indigenous. Minority groups generally have been integrated into mainstream society with overall success; however, discrimination against the country's newer immigrants, especially Chinese, sometimes was overt. There were an estimated 150,000 to 200,000 persons of Chinese descent or admixture. Cultural differences and language difficulties hindered and possibly prevented many Chinese immigrants from fully integrating into mainstream society. In addition, Panamanians often resented Chinese immigrants. Racial slurs directed at Asians were used openly among the general population, and substantial numbers of first generation resident Chinese frequently were treated as second-class citizens. However, second and third generation Chinese were seen as

distinct from recent immigrants and generally were accepted in society if they assimilated.

Middle Eastern and Indian residents, like the Chinese, also suffered from racially motivated discriminatory treatment. All three groups often worked in the country's retail trade, particularly in urban areas. Legal and illegal immigrants, especially Chinese, were accorded fewer legal protections than citizens for their trade activities. A constitutional provision reserving retail trade for Panamanian citizens was not enforced in practice; however, immigrants legally could not own their businesses as sole proprietorships and sometimes encountered bureaucratic difficulties in practicing their professions.

Racism against blacks occurred, although it generally was expressed in subtle terms. Afro-Panamanians comprised at least 14 percent of the population; however, blacks were underrepresented in the highest positions of political and economic power. Many Afro-Panamanians remained clustered in the economically depressed province of Colon and poorer neighborhoods of Panama City.

Mainstream political elites generally were unconcerned by the economic and social problems of black populations and a concomitant rise in drug use, crime, and gang violence. The country's white elite discriminated against citizens with darker skin through preferential hiring practices in the private sector and manipulation of government resources in the public sector. The predominantly Afro-Panamanian city of Colon, the country's second largest city, suffered from a conspicuous lack of government services.

Racial discrimination against all ethnic groups was evident in the workplace. In general, light-skinned persons were represented disproportionately in management positions and jobs that required dealing with the public (such as bank tellers and receptionists).

Indigenous People.—The Constitution protects the ethnic identity and native languages of indigenous people and requires the Government to provide bilingual literacy programs in indigenous communities. Indigenous people have legal rights and take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. According to the 2000 Census, indigenous people numbered approximately 285,000 (approximately 9 percent of the population) and had the same political and legal rights as other citizens. There are indigenous reserves for five of the country's seven native groups, including the Embera-Wounaan, Ngobe-Bugle, and Kuna. Tribal chiefs govern each reserve. The much smaller Bri-Bri (approximately 2,500 members) and Naso (approximately 3,000 members) tribes, residing near the border with Costa Rica, did not have officially recognized enclaves.

The Ministry of Government and Justice maintained an Office of Indigenous Policy. Federal law is the ultimate authority on indigenous reserves, but local groups had considerable autonomy. For example, the Government recognized traditional Kuna marriage rites as the equivalent of a civil ceremony. Laws protect intellectual property rights of indigenous artwork and establish regulations for artisan fairs. Despite legal protection and formal equality, indigenous people generally had higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. The poverty rate among the entire indigenous population was estimated between 85 and 96 percent, depending on the group. Discrimination against indigenous people was widespread.

Kuna Yala leaders have succeeded in enforcing their territorial boundaries and maintaining their cultural integrity. There were two Kuna-Yala and four Ngobe legislators (*see* Section 3). Other indigenous groups had not succeeded in using their autonomy to preserve their culture or develop economic independence. Most lived in extreme poverty and isolation.

Due to their often poor mastery of Spanish, indigenous populations often misunderstood their rights and failed to employ legal channels when threatened. In addition, legal tribunals were unavailable in indigenous areas. The problem was exacerbated by government inattention to indigenous problems. The Kuna comaraca Madugandi complained of encroachment by settlers who were deforesting the comarca. The Ngobe were under threat due to the isolation of their reserves, encroachment by settlers, and generalized poverty. The Embera-Wounan struggled to protect their intellectual property in medicinal plants. Indigenous workers frequently did not receive the basic rights provided by the Labor Code, such as minimum wage, social security benefits, termination pay, and job security. Indigenous laborers in the country's sugar, coffee, and banana plantations worked under worse conditions than their nonindigenous counterparts. Indigenous migrant workers were unlikely to be provided with quality housing or food, and their children were much more likely to work long hours of heavy farm labor than nonindigenous children (*see* Section 6.d.).

In August, violence erupted between a group of Embera-Wounan and nonindigenous settlers in a land dispute in the district of Chiman, less than 200 miles east of Panama City. The PNP posted approximately 55 frontier police in the area to avoid further armed conflict. At year's end, the situation had stabilized and the additional police had been removed from the area.

Other Societal Abuses and Discrimination.—The law prohibits discrimination against persons with HIV/AIDS in employment and education, but discrimination was common in practice due to ignorance of the law and of HIV/AIDS. The Government provided treatment for HIV/AIDS in at least 80 percent of cases through the Ministry of Health and Social Security; however, the Government had problems maintaining retroviral medication in stock. In December, the First Lady, President Torrijos, and two government ministers participated in an HIV/AIDS awareness event.

Section 6. Worker Rights

a. The Right of Association.—Private sector workers had the right to form and join unions of their choice, subject to the union's registration by the Government. The Labor Code establishes the minimum size of unions at 40 workers and permits only one "establishment union" per establishment to represent the workers of that establishment, but umbrella unions based on skill groups may also operate in the same establishment. The Code provides that if the Government does not respond to a registration application within 15 days, the union automatically gains recognition with all rights and privileges under the law. Associations of unions complained that such automatic registration did not function in practice. Employees of small companies may organize under a larger umbrella group of employees with similar skills and form a union as long as they number at least 40. The code also allows labor leaders to keep their union positions if fired from their jobs. Approximately 10 percent of the total employed labor force was organized.

As of September, the Government had not made any additional payments to 270 public sector electricity and telecommunications workers whose dismissal the Inter-American Court of Human Rights had found improper in a 2001 ruling.

The Government and political parties exercised political, ideological, and/or financial influence over some unions.

b. The Right to Organize and Bargain Collectively.—The law provides all private sector and most public sector workers with the right to organize and bargain collectively, and private worker unions exercised it widely. The Labor Code establishes a conciliation section in the Ministry of Labor to resolve private labor complaints and provides a procedure for mediation.

Public workers had an association consisting of 19 public workers associations, but it did not strike or negotiate collective bargaining agreements because only approximately 8 percent of government workers were protected from arbitrary dismissal as certified career employees. At year's end, the Ombudsman's office reported that it had received over 200 complaints of unjustified dismissal from public employees. The law grants some public employees a limited right to strike, except for those in areas vital to public welfare and security, such as the police and health workers. At least 25 percent of the workforce must continue to work to provide minimum service in the case of administrative workers, and 50 percent must continue to provide service in the case of workers providing "essential public services," such as transportation, firefighting, telecommunications, and mail.

The law governing the autonomous Panama Canal Authority prohibits the right to strike for its 8,400 employees, but does allow unions to organize and to bargain collectively on such issues as hours and safety and provides for arbitration to resolve disputes.

Employers in the retail industry commonly hired temporary workers to circumvent labor code requirements for permanent workers. Temporary workers were excluded from social security benefits, job security, and vacation time. In lower-skilled service jobs, employers often had some employees under "three-month contracts" for years, sometimes sent such employees home for a month, and then rehired them. Employers also circumvented the law requiring a 2-week notice for discharges by laying off some workers 1 week before a holiday. In addition, due to labor laws that made it difficult to fire employees of 2 years or more, it was not uncommon to hire workers for 1 year and 11 months and subsequently lay them off.

Employers, following a 2000 Supreme Court ruling, increasingly negotiated directly with unorganized workers before unions formed or had a majority presence in the workplace.

Unions and collective bargaining are permitted in export processing zones (EPZs). A strike is considered legal only after 36 workdays of conciliation are exhausted; otherwise, striking workers can be fined or fired. A 1998 ILO observation noted that this regulation did not mention arbitration or specify procedures to resolve disputes in the courts and called on the Government to amend the EPZ labor regulations to conform with international norms. The Government responded that it considered the time limits reasonable and that the parties may have recourse to arbitration. The same labor laws governing EPZs applied to the more recent Call Centers. There were approximately 1,000 EPZ employees and several times more Call Center employees. Minimum wage provisions applied in the EPZs and Call Centers, and wages were generally higher in the Call Centers than in the economy as a whole. In the EPZs, workers could agree to take the Labor Code's compulsory Sunday rest period on another day and to overtime compensation based on a straight 25 percent differential, compared to a complex and costlier system under the Labor Code.

In July, the Government created a special economic area in the former Howard Air Force Base Area. The law creating the area contains provisions intended to create greater labor flexibility similar to the minimum wage and required rest day provisions in the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The Labor Code prohibits forced or compulsory labor by adults and children.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law and Constitution prohibit the employment of children under 14 years of age except children age 12 and over performing light farm work, and also prohibits the employment of children under age 15 if the child has not completed primary school. However, child labor was a problem in some provinces and some economic sectors.

Children under age 18 legally cannot work more than 6 hours per day and cannot work at night. The law includes a prohibition on employment of minors under the age of 18 in hazardous labor. The Ministry of Labor enforced these provisions in response to complaints and could order the termination of unauthorized employment. The Government acknowledged that it was unable to enforce some child labor provisions in rural areas, and it conducted only limited inspections, due to insufficient staff.

Child labor violations occurred most frequently in rural areas, during the harvest of sugar cane, coffee, bananas, melons, and tomatoes. Farm owners often paid according to the amount harvested, leading many laborers to bring their young children to the fields to help with the work.

The problem of child labor in agricultural areas fell most heavily on indigenous families, who often migrated out of their isolated reserves in search of paid work (*see* Section 5). These frequent migrations interrupted schooling. The Government claimed that due to insufficient staff, it often was unable to enforce child labor provisions in rural areas (*see* Section 6.e.).

Child domestic labor was a problem. According to the 2000 census, over 6,000 children between the ages of 10 and 17 worked as domestic servants. A 2002 ILO study found that 47 percent of children working as domestic servants were 13 years old or younger and that 76 percent received less than minimum wage. Government enforcement of domestic laborer violations was weak traditionally because the place of work is a private residence; however, the Torrijos Administration began training its personnel how to request a warrant and proceed in domestic labor cases.

Children continued to work for tips as grocery baggers in urban supermarkets, many during late hours; however, there was some evidence that supermarkets began employing more children closer to the legal work age. Some supermarket managers claimed that the children actually were not employed by their firm, despite the fact that "baggers" conformed to schedules, wore uniforms, complied with company codes of conduct, and took orders from managers as if they were direct employees.

Many children worked in the informal sector of the economy. An ILO survey of children and adolescents in two areas of Panama City found that the majority of child workers were self- employed. The most common jobs were grocery baggers (54 percent), garbage pickers (11 percent), bus assistants (10 percent), and street vendors (9 percent).

e. Acceptable Conditions of Work.—The Labor Code establishes minimum wage rates for specific regions and for most categories of labor. The minimum wage ranged from $0.82 per hour to $1.56 per hour, depending on the region and sector. This wage was not sufficient to provide a decent standard of living for a worker and family. In August 2003, the Government raised the base minimum wage by an average of 4 to 5 percent, depending on sector, region, and company size, as part of a legally required review of the minimum wage. Public workers do not fall under the

Labor Code and were not included in the group of beneficiaries. Most workers formally employed in urban areas earned the minimum wage or more; however, about one-third of the population worked in the large informal sector and earned far below the minimum wage. This was particularly the case in most rural areas, where unskilled laborers earned $3 to $6 per day, without benefits; the Government did not enforce labor laws in most rural areas.

The Labor Code establishes a standard workweek of 48 hours and provides for at least one 24-hour rest period weekly.

The Ministry of Labor is responsible for enforcing health and safety standards and generally did so. The standards are fairly broad and generally emphasize safety over long-term health hazards. Inspectors from both the Ministry of Labor and the occupational health section in the Social Security Administration conducted periodic inspections of hazardous employment sites and responded to complaints; however, the Government failed adequately to enforce health and safety standards. Construction workers and their employers were notoriously lax about conforming to basic safety measures and approximately 20 construction workers died during the year. In 2001, the Ombudsman's office published a special report on the use of chemical pesticides in the banana industry, where poisoning by chemical agents was a recurrent problem and workers often worked, slept, or ate without proper protection. The situation improved, but problems continued, especially in remote areas. Complaints of health problems also continued in the cement and milling industries.

Workers also have the right to remove themselves from situations that present an immediate health or safety hazard without jeopardizing their employment. They generally were not allowed to do so if the threat was not immediate but may request a health and safety inspection to determine the extent and nature of the hazard.

PARAGUAY

Paraguay is a constitutional republic with three branches of government. The President is the head of government and head of state; he cannot succeed himself. In April 2003, voters elected Nicanor Duarte Frutos of the Colorado Party as President in generally free and fair elections. Duarte was inaugurated in August 2003. The Congress consists of a 45-member Senate and an 80-member Chamber of Deputies. An alliance of five opposition parties and dissident members of the governing Colorado Party controlled the Chamber of Deputies, while the five opposition parties in coalition controlled the Senate. The Constitution provides for an independent judiciary; however, the courts remained inefficient and subject to corruption and political pressure.

The National Police has responsibility for maintaining internal security and public order and reports to the Ministry of the Interior. On several occasions during the year, especially in response to unrest and land invasions in the countryside, the Government called on the military to assist the police in maintaining public order. The civilian authorities generally maintained effective control of the security forces. Members of the security forces committed some human rights abuses.

The country has a market economy with a large state presence and a large informal sector. The population was approximately 6.2 million. An estimated 45 percent of the workforce was employed in agriculture, which provided 21 percent of the gross domestic product (GDP) and more than 90 percent of export earnings. In 2003, real GDP grew 2.6 percent after falling by nearly a third over the preceding decade.

The Government generally respected the human rights of its citizens in most areas; however, there were serious problems in some areas. There were killings by the police and military. Incidents of abuse of convicted prisoners and other detainees continued. The Human Rights Ombudsman prosecuted cases of human rights abuses committed during the 1954–89 Stroessner regime, and members of a commission charged with investigating these abuses were named and began work. Prisons were overcrowded and violent. Other problems included arbitrary arrests and detention, lengthy pretrial detention, corruption and inefficiency in the judiciary, and infringements on citizens' privacy rights. The Government continued its steps to reduce illegal military conscription, and treatment of conscripts improved; however, recruitment and conscription of minors has not been completely eliminated. Police used force against illegal but peaceful demonstrations. Continuing problems included violence and discrimination against women, trafficking in persons, discrimination against persons with disabilities and indigenous people, inadequate protections of worker rights, as well as child labor and child abuse.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, the police and military were responsible for some killings involving the use of unwarranted or excessive force. There were reports that police officers killed persons while acting outside the scope of their duties and of deaths in custody.

In May, police officer Carlos Francisco Meyeregger was arrested for shooting and killing an assistant prosecutor in Paraguari. The prosecutor had attempted to question the officer about allegations that he was involved in the theft of livestock.

In June, authorities arrested four police officers, Angel Cantero, Mauro Luis Benitez Amarilla, Edgar German Insfran, and Jose Dolores Amarilla Jara, and charged them with the murder of two brothers, Roberto Orlando and Javier Glitz Velazquez. According to the indictments, the killings were related to the officers' involvement in drug trafficking.

There were no developments in the case of Adrian Martinez, a member of the National Police, who was arrested in September 2003 and charged with killing two 15-year-old boys.

In August, police officer Roque Fretes Benitez was convicted of the 2002 murder of Cynthia Celeste Fretes Leguizamon and sentenced to 12 years in prison.

No new information was available on the investigation into the 2002 police killing of rural demonstrator Calixto Cabral.

There were no new developments in the pending trial of police officer Adan Ramirez Olazar in the 2002 killing of Roberto Carlos Paniagua Jara.

Police used force to disperse illegal protesters on several occasions, particularly in connection with land invasions, resulting in deaths and injuries on both sides (*see* Section 2.b.).

There were no new developments, and none were expected, in the case of former President Raul Cubas who was freed from house arrest in June 2003, while facing charges over the deaths of seven demonstrators in 1999. Although a judge declared that Cubas bore no responsibility for the deaths, the charges formally remained in place.

In 2002, lawyers from the Committee of Churches, a nongovernmental organization (NGO), petitioned the Foreign Ministry to continue prosecuting a motion to extradite former President Stroessner from Brazil to stand trial for a murder committed in 1977. The petition remained pending. In an unrelated case, in September, a judge requested Stroessner's extradition from Brazil and summoned the former head of the armed forces and 30 other retired military officers for questioning in relation to the disappearances of three political figures between 1976 and 1978. There has been no response to the extradition request, which the Government neither endorsed nor opposed.

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

Political figures Juan Arrom and Anuncio Marti, accused of kidnapping Maria Edith Bordon de Debernardi, remained in Brazil, where they were granted political asylum in 2003. Brazil rejected the government's request for their return. In October, Interpol authorities in Spain detained Marti, who was traveling to a conference in Madrid with a Brazilian travel document. The Government requested Marti's extradition, but Spanish authorities allowed Marti to attend the conference and return to Brazil. Arrom and Marti accused police, with the complicity of a cabinet minister, of kidnapping and torturing them over a 2-week period in early 2002. Carmen Villalba, an accused accomplice arrested in 2003, escaped from the women's prison at Buen Pastor but was recaptured.

The Supreme Court maintained documents related to abuses committed during the Stroessner regime in an Archives of Terror that were available for research by academics and the general public. During the investigation of the alleged Arrom/Marti abduction, authorities discovered additional documents that were added to the Archives.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, torture (primarily beatings) and brutal and degrading treatment of convicted prisoners and other detainees continued. The Paraguay Human Rights Coordinating Board (CODEHUPY)—a group of 32 NGOs, civic organizations, and trade unions—reported several cases of police torture and other abusive treatment of persons, including women and children, designed to extract confessions, punish escape attempts, or intimidate detainees. The Attorney General's office and the NGO Committee of Churches compiled numerous examples of police abuse.

In April, an air force colonel accused his superior and a fellow officer of beating him for refusing to obey an alleged order to falsify a weapons inventory. A military investigation found the charges unsubstantiated.

In July, Ramon Benitez Irala, accused of involvement in a fight at a street party in Hernandarias, was shot when police raided his apartment. The officers held him incommunicado in a cell for 8 days and refused to allow him to be treated for three bullet wounds. The officers were not charged.

In September, the Inter-American Court of Human Rights found the Government liable for a fire in 2000 at the Panchito Lopez juvenile detention facility and imposed a fine of $5 million.

There were no developments, and none were expected, in the case of Elvio Riquelme, who claimed in September 2003 that four policemen tortured him in the course of questioning.

Police used force to disperse illegal protesters on several occasions, especially in connection with land invasions in the countryside, resulting in deaths and injuries on both sides (*see* Section 2.b.).

The Constitution allows the Human Rights Ombudsman (Defensor del Pueblo) to prosecute and seek monetary compensation in cases of human rights abuses stemming from the 1954–89 Stroessner regime. Since his appointment in 2001, the Ombudsman, Manuel Paez Monges, has ruled that 596 of 1,646 victims who filed petitions pursuant to a Senate resolution were entitled to compensation, and awards in the resolved cases ranged from $583 to $17,500 (3.5 to 105 million guaranies). In August, the country inaugurated a Truth and Justice Commission to investigate and document human rights abuses between 1954 and October 2003. The Government requested that the U.N. release confidential documents relevant to the Commission's investigation.

There were several reports, most recently in November and December, of members of the military harassing and beating civilians living near a military base in Puerto Falcon and, in two cases, leaving unexploded ordnance in civilians' backyards. The reason for such incidents was unclear.

Prison facilities were deficient, and prison conditions were extremely poor. Overcrowding, unsanitary living conditions, and mistreatment were the most serious problems affecting all prisoners. Tacumbu Prison—the largest in Asuncion—was built to hold 800 inmates but held over 2,500 for most of the year. A majority of those held were awaiting trial. Regional prisons generally held approximately three times more inmates than originally planned.

There was also a makeshift maximum-security facility for housing dangerous offenders, or those considered to be high escape risks, in solitary confinement. Inmates were held in a facility not designed for prison use nor officially recognized as a prison.

Security was a problem throughout the prison system. For example, there were approximately 130 guards for over 2,500 prisoners at Tacumbu Prison. Inmates frequently had weapons, particularly at the Emboscada prison in Minas. In February, an appeals court ordered that two inmates at Tacumbu receive protective detail after several attempts had been made on their lives within the institution. Escapes and escape attempts were frequent. In August, two inmates were shot to death by guards as they attempted to escape from Tacumbu. In September, 10 inmates escaped from the Itapua facility in Encarnacion, severely injuring a guard who confronted them. There were a number of instances of prisoners killing other prisoners. In January, violence in the Tacumbu and Emboscada prisons left six inmates dead from knife wounds. Corruption among prison guards remained a problem. In September, two guards were accused of assisting a group of 10 prisoners to escape from Tacumbu.

Female prisoners generally were held in separate facilities from male prisoners. Although some smaller institutions held prisoners of both sexes, it was government policy to hold them in separate wings. In December, 19 women who had been moved from the Buen Pastor women's prison to the higher security Emboscada men's prison for alleged misconduct were returned to Buen Pastor after complaining that they had been subjected to inhumane conditions and abuse, including forced prostitution with male inmates. At year's end, the Senate Human Rights Committee was investigating the allegations of abuse and conditions at the prison.

Juvenile prisoners generally were held separately from adults; however, in smaller, regional prisons outside the capital, adults and juvenile prisoners continued to be held together. In November, the Human Rights Committee of the Senate complained that 260 detainees aged 18 to 20 who were transferred from the Panchito Lopez juvenile detention facility to the Tacumbu Prison were not properly separated from adult prisoners. Despite the Committee's involvement, conditions remained unsatisfactory at year's end.

Pretrial detainees generally were held separately from convicted prisoners.

The Government permitted independent monitoring of prison conditions by human rights organizations. Amnesty International and diplomatic representatives were granted access to prisons for announced and unannounced visits.

d. Arbitrary Arrest or Detention.—The Constitution prohibits detention without an arrest warrant signed by a judge and stipulates that any person arrested must appear before a judge within 24 hours to make a statement; however, arbitrary arrest and detention were problems. The police may arrest persons without a warrant if they catch them in the act of committing a crime, but they must notify a prosecutor. In practice, the authorities did not always comply with these provisions. A few defendants alleged that police arrested them and held them incommunicado for days.

The main police agency is the National Police, which is under the authority of the Minister of Interior. The police were inadequately funded, poorly trained, and generally corrupt. The Government took steps to control and punish human rights violations committed by police officers; however, the police enjoyed impunity for many of their actions. There were reports that police were involved in narcotics trafficking and provided support to the more notorious kidnapping rings. On October 28, the National Police Chief announced the dismissal of 60 police officers for acts of corruption, citing the dismissals as an example of a zero tolerance policy with regard to police corruption.

The overall crime rate fell, and police made arrests in a number of high-profile cases, such as kidnappings. A new 911 system for reporting emergencies to police generated positive results.

The Penal and Criminal Procedures Code provides that, after making an arrest, police have up to 6 hours to notify the Prosecutor's Office, at which point the Prosecutor's Office has up to 24 hours to notify a judge whether it will prosecute the case.

The average time from arrest to trial was approximately 240 days. The Constitution permits detention without trial until the accused completes the minimum sentence for the alleged crime, which often occurred in practice. The law allows judges to utilize "substitute measures," such as house arrest, in place of bail for most crimes; however, judges frequently set relatively high bail, and many accused persons were unable to post bond. Pretrial detainees constituted approximately 75 percent of the prison population. Supreme Court justices and staff and many criminal court judges made periodic visits to the prisons to identify and release improperly detained individuals.

The law grants accused criminals the right to counsel; however, the Government lacked the resources to provide counsel to poor defendants, and many continued to go to trial without representation. The Government permitted defendants to hire attorneys at their own expense. Inmates were allowed regular visits from family members, including conjugal visits.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, courts remained inefficient and subject to corruption and political influence. Politicians and other interested parties often pressured judges, although the judiciary was not allied with any one political group.

The nine-member Supreme Court appoints lower court judges and magistrates, based upon recommendations by the Magistrate's Council. There are five types of appellate tribunals: Civil and commercial, criminal, labor, administrative, and juvenile. Minor courts and justices of the peace come within four functional areas: Civil and commercial, criminal, labor, and juvenile. The military has its own judicial system.

The Constitution stipulates that all defendants have the right to an attorney, at public expense if necessary; however, this right often was not respected in practice. Many destitute suspects received little legal assistance, and few had access to an attorney sufficiently in advance of the trial to prepare a defense. The 148 public defenders in the country, including 44 in Asuncion, lacked the resources to perform their jobs adequately.

The Penal Procedures Code introduced expedited oral proceedings and requires prosecutors to bring charges against accused persons within 180 days. Defendants enjoy a presumption of innocence, and defendants and the prosecutor may present the written testimony of witnesses as well as other evidence. The judge alone determines guilt or innocence and decides punishment. A convicted defendant may appeal his or her sentence to an appeals court, and the Supreme Court has jurisdiction over constitutional questions.

In late 2003, as the first step in an effort to combat corruption in the judicial system, four justices of the Supreme Court resigned under pressure, and two were impeached and removed for corruption. Following a public consultation process, in

which several civil society organizations vetted the nominees, the Senate chose, and the President appointed, six new justices as replacements.

In July, the Attorney General suspended Judge Hugo Sosa Pasmor and ordered him to go before a review board. Sosa had ordered financial crimes charges dropped against several individuals accused of looting Banco Oriental during its failure in 2001 and never declared a conflict of interest stemming from his friendship with one of the defendants.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits police entry into private homes except to prevent a crime in progress or when the police possess a judicial warrant; however, at times, the Government infringed on citizens' privacy rights. While the Government and its security forces generally did not interfere in the private lives of citizens, human rights activists claimed that local officials and police officers abused their authority by entering homes or businesses without warrants and harassing private citizens. There were allegations that some government offices occasionally spied on individuals and monitored communications for partisan or personal reasons. In September, authorities arrested three police officers in Fernando de la Mora for extortion and running a protection scheme with small businesses.

Over the past several years, the Government has established review procedures for military conscripts to prevent enlistment of minors and to investigate and report on abuses and conditions. During the year, the Government required all military officers responsible for recruiting to ensure that all conscripts met the legally minimum mandated requirement age of 18 for military service. The armed forces also had a human rights office responsible for helping NGOs investigate alleged uses of forged documents and illegal recruiting practices. In October, the Government's Inter-Institutional Committee on Human Rights, including judges, attorneys, legislators, and NGO representatives, visited military bases around the country to inspect conscripts' records and did not identify any minor soldiers. Although there were continued reports of mistreatment of conscripts during the year, the Inter-Institutional Committee reported that treatment and conditions improved considerably.

The Constitution provides for the deferral of military service for conscientious objectors, but there is no legal framework to guide the military's treatment of those claiming the status. Approximately 112,000 conscripts have been recognized as conscientious objectors since 1993. The Human Rights Commission of the Chamber of Deputies reported that it received 20 claims of conscientious objector status per day.

In May, the Government expropriated land in Marquetalia invaded a year earlier by squatters from San Lorenzo and turned it over to the squatters.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The print and electronic media were independently owned; some media outlets were tied closely to political parties or business entities. Many media outlets clearly reflected personal business or political interests, and ethical and professional standards were low. The media commonly criticized the Government and freely discussed opposition viewpoints.

In July, members of the youth wing of the Colorado Party, led by Raul Sanchez, beat and choked Daniel Duarte, a photographer from the daily La Nacion, when he attempted to take a photograph at one of their meetings. The parties reached a private settlement, and no criminal charges were filed.

In August, policeman Alfredo Mino beat a photographer from the Ciudad del Este daily Vanguardia when the photographer took his picture as a reporter questioned him about a search he had performed without obtaining a warrant.

Application of libel law was irregular. Judges were biased toward plaintiffs and frequently ruled in their favor regardless of the merits of a case. Several political figures sued journalists for libel or defamation during the year. A prominent Senator from the ruling Colorado Party, who sued the leading daily newspaper, ABC Color, for defamation, was awarded $100,000 (6.0 million guaranies). It was the fifth time in 5 years the Senator had sued the newspaper. Other political figures used police or private security officers to threaten or intimidate journalists.

On several occasions, politicians and prosecutors issued public death threats to journalists who revealed embarrassing information about them, typically related to corruption.

The Inter-American Court of Human Rights awarded $35,000 in damages to journalist Ricardo Canese, who was imprisoned without trial in 1992 after losing a libel suit by then-presidential candidate Juan Carlos Wasmosy.

The Government did not restrict use of the Internet.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of peaceful assembly, and the Government generally respected this right in practice; however, in some cases, police used violent force against illegal but nonviolent assemblies.

The law restricts demonstrations in Asuncion to certain times and places and specifically prohibits meetings or demonstrations in front of the presidential palace and outside military or police barracks. Some groups opposed these restrictions. The law also requires that organizers notify the Asuncion police 24 hours before any rally downtown. In addition, the law prohibits public gatherings in the congressional plaza in Asuncion, the traditional focal point for many demonstrations, during daylight hours on workdays. The police may ban a demonstration but must provide written notification of the ban within 12 hours of receipt of the organizers' request. The law permits a police ban only if another party already has given notice of plans for a similar rally at the same place and time. This law does not apply to religious processions. The Constitution prohibits closing roads as a form of protest; however, demonstrators did so on many occasions during the year.

Several campesino organizations held demonstrations throughout the year. Members blocked several national highways, and campesinos invaded and occupied numerous rural properties, calling on the Government to expropriate farmland for redistribution. Although the Government sought to avoid violent confrontations, violence between security forces and protesters erupted on several occasions, which resulted in deaths on both sides.

The Constitution provides for the right of all citizens to free association, and the Government generally respected this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government required that all religious groups register with the Ministry of Education and Culture but imposed no controls on these groups, and many unregistered churches existed.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. Authorities frequently prohibited those accused of crimes from leaving the country and, on occasion, barred those convicted of crimes from traveling abroad after completing their sentences. The Constitution expressly prohibits exile, and the Government did not use it. Several individuals accused of offenses have fled the country and referred to themselves as exiles. In June, Lino Oviedo, the former general now imprisoned for coup plotting in the late 1990s, as well as several of his associates, returned from self-imposed exile.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared prosecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. In October 2003, a new National Commission for Refugees, an office of the Foreign Ministry created with the assistance of the UNHCR, adjudicated its first asylum applications.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution and the Electoral Code mandate general elections every 5 years with voting by secret ballot.

In the April 2003 presidential and congressional elections, multiple parties and candidates contested the country's leadership positions. Five parties won representation in Congress, and the opposition Liberal Party won several of the departmental governorships. Debate in Congress was free and frank, and the Congress often rejected the executive branch's proposals. The Senate was under the control of the opposition parties, and an alliance of five opposition parties and dissident members of the governing Colorado Party controlled the Chamber of Deputies.

Observers from the Organization of American States characterized the April 2003 elections as free and fair. There were no reports of systematic nationwide irregularities, although Transparency Paraguay, an NGO, cited irregularities at several polling stations. Turnout was approximately 70 percent. For the first time in a national election, about half of the electorate cast ballots on electronic voting terminals, which were less prone to manipulation than paper ballots. The highest electoral court ruled that future elections would be conducted with electronic machines at all stations.

There were several reports of political intimidation of prosecutors attempting to investigate official corruption. In June, Cuidad del Este prosecutor Amilcar Ayala reportedly received death threats related to his investigation into smuggling and falsification of video games. The prosecutor's office stated that it believed the threats came from corrupt officials in Customs, but no formal investigation took place. Ayala himself has been implicated in corruption cases.

Miguel Corrales, a member of the Chamber of Deputies, threatened to use his position as a congressional representative on the Magistrates' Review Board to impeach a prosecutor who ordered Corrales' son to take a breathalyzer test. In response to political pressure, Corrales requested an indefinite leave of absence—tantamount to resignation—from the board.

The Government signed a number of agreements with civil society organizations to promote transparency in the public sector. The Ministry of Finance signed agreements with three local NGOs and the National Council for the Implementation of the National Integrity System to strengthen the Council's work. NGOs obtained information regarding the government's royalty transfers to local governments to promote greater oversight of the use of such transfers. However, in another case, Transparency Paraguay, which had been asked by the Government to promote transparency and provide oversight of procurement by the national oil company, removed itself from monitoring the company after it had difficulties in gaining access to information.

There are no legal impediments to women's participation in government and politics. There were 11 women in Congress (4 of 45 senators and 7 of 80 national deputies), 1 woman on the Supreme Court, 1 woman elected as a departmental governor, and 3 women headed government ministries. The Electoral Code requires that 20 percent of each party's candidates in their internal primaries for elective office be women.

Members of indigenous groups are entitled to vote, and the percentage of indigenous people who exercised this right continued to grow. The national electoral court estimated that 50 percent of the approximately 40,000 indigenous people eligible to vote did so in the 2003 general elections. The court attributed the increase to its voter education campaign and political parties' voter assistance initiatives. The inhabitants of some indigenous communities reported that they were threatened and prohibited from fully exercising their political rights.

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

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, the Government had a mixed record in cooperating with or responding to recommendations from such groups.

Local NGO human rights groups included the Committee of Churches (an interdenominational group that monitored human rights, investigated refugee claims, and provided legal assistance), Luna Nueva (a group dedicated to the protection of children's rights), and Peace and Justice Service or SERPAJ (a group that defended conscientious objectors and provided legal assistance to those with grievances arising from military service). CODEHUPY's annual report highlighted abuses of police authority and mistreatment of military recruits.

In October 2003, Ombudsman Paez Monges was re-appointed for a second 2-year term as the country's human rights advocate.

The Director General of Human Rights, located in the Ministry of Justice and Labor, chaired the National Commission on Human Rights. The Commission sponsored seminars to promote human rights awareness. The Director General's office has access to the congressional, executive, and judicial authorities. It does not have subpoena or prosecutorial power, but the Commission may forward information concerning human rights abuses to the Attorney General for action. It served as a clearinghouse for information on human rights and trained thousands of educators in human rights law.

The Human Rights Office of the Foreign Ministry organized an inter-ministerial roundtable on human rights that met periodically throughout the year. It served as

a forum for human rights officials from various ministries to coordinate their efforts and focused principally on combating trafficking in persons.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution and other laws prohibit discrimination based on race, sex, disability, language, or social status; however, certain groups, such as indigenous people, faced significant discrimination in practice.

Women.—The most pervasive violations of women's rights involved sexual and domestic abuse, which were underreported. Spousal abuse was common. Although the Penal Code criminalizes spousal abuse, it stipulates that the abuse must be habitual before being recognized as criminal and then is punishable only by a fine. Thousands of women were treated for injuries sustained in violent domestic altercations. In recent years, there has been a trend toward the increased reporting of complaints, although statistics were unreliable.

According to women's rights activists, official complaints rarely were filed or were withdrawn soon after filing due to spousal reconciliation or family pressure. In addition, the courts allow for mediation of some family violence cases, although the law does not include this provision. The Secretariat of Women's Affairs' Office of Care and Orientation receives reports on violence against women and coordinates responses with the National Police, primary health care units, the Attorney General's office, and NGOs. In practice, these services were available only in Asuncion. The Secretariat also conducted training courses for the police, health care workers, prosecutors, and others.

The Women's November 25th Collective, an NGO, operated a reception center where female victims of violence received legal, psychological, and educational assistance. The NGO Kuna Aty also offered services to abused women. No shelters for battered and abused women were available outside of Asuncion.

The law makes rape, including spousal rape, illegal and provides penalties of up to 6 years in prison. The Government generally prosecuted rape allegations that were reported; however, many rapes went unreported because victims feared their attackers or were concerned that the law did not provide adequate respect for their privacy.

The law prohibits the sexual exploitation of women, but the authorities did not enforce the prohibition effectively. Prostitution by adults is legal for persons over the age of 18, and exploitation of women, particularly underage prostitutes, remained a serious problem.

The Labor Code prohibits but does not criminalize sexual harassment, and it remained a problem for many women in the workplace. Claims of abuse may be filed with the courts and the Ministry of Justice and Labor, but most complaints were settled privately.

Women generally enjoyed the same legal status and rights as men. Sex-related job discrimination was widespread and widely tolerated. The Secretariat of Women's Affairs occasionally sponsored programs intended to give women free and equal access to employment, social security, housing, ownership of land, and business opportunities.

Women had higher illiteracy rates than men. In 2003, an estimated 7 percent of women were illiterate, compared with 5 percent of men. In addition, maternal mortality rates were high, and as many as 65 percent of such deaths were related to poor health care. Several groups worked to improve conditions for women, including Women for Democracy, which was active in civic and electoral education. Other groups included Sumando, an NGO that promoted educational reform and voter participation in elections, and the Women's Education and Research Service, which focused on women, public policy, and the participation of women in local development.

Children.—The Constitution protects certain children's rights and stipulates that parents and the State should care for, feed, educate, and support children.

Public schooling was provided through the age of 17, and education was compulsory until the age of 14. According to UNICEF, the rate of enrollment for children between the ages of 6 and 14 was 88 percent in 2003; the rate of enrollment for children between the ages of 15 and 17 was 31 percent. Boys and girls legally are entitled to equal access to education; at all ages, enrollment among girls was slightly greater than enrollment among boys. Rates of enrollment in urban areas were slightly higher than rates of enrollment in rural areas. The greatest area of inequality was between indigenous and non-indigenous children; only 59 percent of indigenous children between the ages of 6 and 14 were enrolled in school. According to UNICEF, the national literacy rate was 94 percent.

A 2003 survey reported that 42 percent of children age 14 or younger lived in poverty, and 11 percent of those suffered from chronic malnutrition, with both figures trending upward. Boys and girls generally had equal access to medical care.

Abuse and neglect of children was a problem. A local NGO attributed a rise in the number of complaints of mistreatment of children to the increased awareness of child abuse and neglect.

Sexual exploitation of children also was a problem. In its most recent survey, released in 2001, the NGO, AMAR, identified 619 child victims of sexual exploitation, the vast majority of whom lived in Asuncion and Ciudad del Este. Approximately 33 percent of the victims were under the age of 16.

The 2001 Child and Adolescent Law created a Child and Adolescent Secretariat and required municipalities to create a new office to promote the rights of children and adolescents. The Secretariat, although now funded, has not been effective; however, since 2001, the number of municipalities with Child and Adolescent offices increased from 60 to approximately 120.

There were reports of trafficking in girls for the purpose of sexual exploitation (*see* Section 5, Trafficking).

There continued to be reports of the conscription of underage youth (*see* Section 1.f.), and, at year's end, an NGO and members of Congress were seeking to investigate allegations that the problem persisted.

Trafficking in Persons.—The Constitution proscribes and the Penal Code criminalizes trafficking in persons; however, there were sporadic reports of trafficking to, from, and within the country for sexual purposes.

The Penal Code punishes trafficking in persons with up to 10 years in prison; the Code also outlaws compelling anyone to travel outside the country or to enter the country for the purpose of prostitution or compelling a minor under 18 years of age to work as a prostitute.

The Secretariats of Women's Affairs and of Children and Adolescents were responsible for combating trafficking, and the Secretariat for Repatriations had a mandate to assist women who were trafficked abroad; however, the Secretariats' small budgets limited their effectiveness. The Government's primary focus was on the repatriation of its own citizens.

The country was a source for trafficked persons, and trafficking also took place within the country. Anecdotal evidence suggested that several hundred women and children were trafficked abroad annually. There were no estimates available on the extent of trafficking within the country. Most victims came from the rural interior of the country, particularly the departments of Alto Parana, Canindeyu, and Caaguazu. Within the country, victims were trafficked primarily to the two largest cities, Asuncion and Ciudad del Este; the most significant foreign destinations were Argentina and Spain; smaller numbers of victims went to Brazil. Trafficking victims within the country worked in the sex industry. Underage girls reportedly also were forced to work as domestic servants, both domestically and in neighboring countries. Studies showed that most of the girls trafficked were working as street vendors when traffickers targeted them and that 70 percent of victims had drug addictions.

In February, police in Ciudad del Este broke up a Taiwanese-run network that smuggled underage women between the country and Brazil. Authorities arrested six Taiwanese nationals.

In March, police arrested several Chinese nationals attempting to smuggle a group of Bolivian women into the country.

In June, Spanish police discovered more than 50 Paraguayan women working at brothels. The women claimed to have been trafficked by a group of men in Villarica promising them work in Spain as supermarket clerks. Two of the women escaped and returned home, where they reported the incident to the local police. Two of the traffickers were convicted and sentenced to 6 years in prison.

On several occasions, Argentine police rescued Paraguayan women from Buenos Aires brothels, where they had been forced to work as prostitutes.

The Ministry of Foreign Affairs organized several interministerial roundtables to discuss trafficking in persons, and sponsored the visit of the U.N. Commission on Human Rights' Special Rapporteur on the sale of children, child prostitution and child pornography. In October, the city of Asuncion sponsored a daylong conference on trafficking, featuring presentations by government ministries, NGOs, and international organizations.

The Itaipu Binational Authority, a public utility company jointly owned by the country and Argentina, supported the NGO Children's and Adolescents' Care and Assistance Center, which ran a hotline and shelter for trafficking victims in Ciudad del Este. The International Labor Organization continued work on a study of child sexual exploitation in the tri-border area.

Persons With Disabilities.—The Constitution provides for equal opportunity for persons with disabilities and mandates that the State provide them with health care, education, recreation, and professional training. It further requires that the State formulate a policy for the treatment, rehabilitation, and integration into society of persons with disabilities; however, the Congress never enacted legislation to establish such programs or provided appropriate funding. Many persons with disabilities faced significant discrimination in employment; others were unable to seek employment because of a lack of accessible public transportation. The law does not mandate accessibility for persons with disabilities, and the vast majority of the country's buildings, both public and private, were inaccessible.

The Ministry of Health noted that half of all children with disabilities did not attend school because public buses could not accommodate them. Many bus drivers reportedly refused boarding to persons with disabilities or required them to be accompanied.

Conditions at the Neuropsychiatric Hospital in Asuncion were substandard, and some patients reportedly were kept unclothed in cells and were not treated for their mental illnesses. The physical facilities of the hospital lacked running water, electricity, or even roofs, and the hospital was severely understaffed. The patients were not fed adequately, in many cases receiving only bread or crackers and tea. Parasitic and skin infections were widespread and rarely treated. Children were housed with adults in the facility and were subject to sexual assaults from older patients. President Duarte made several unannounced inspections of the hospital and replaced a series of hospital directors for incompetence and corruption. In March, a team from the Inter-American Human Rights Commission inspected the hospital. The First Lady took a strong interest in the hospital, overseeing kitchen renovations and the donation of clothing and bedding.

Indigenous People.—The Constitution provides indigenous people with the right to participate in the economic, social, political, and cultural life of the country; however, the indigenous population (numbering more than 89,000, according to 2002 census data) was unassimilated and neglected. Low wages, long work hours, infrequent payment (or nonpayment) of wages, job insecurity, lack of access to social security benefits, and racial discrimination were common. Weak organization and lack of financial resources limited access by indigenous people to the political and economic system. The Constitution also protects the property interests of indigenous people, but these rights were not codified fully. The Constitution allows Public Ministry officials to represent indigenous people in matters involving the protection of life and property.

Lack of access to sufficient land hindered the ability of indigenous groups to progress economically and maintain their cultural identity. In addition, there was insufficient police and judicial protection from persons encroaching on indigenous lands. Many indigenous people found it difficult to travel to the capital to solicit land titles or process the required documentation for land ownership.

Other significant problems facing the indigenous population included lack of shelter and medical care, economic displacement resulting from other groups' development and modernization, and malnutrition. Scarce resources and limited government attention slowed progress in dealing with these problems.

In August, CODEHUPY reported that armed men forcefully evicted 43 families of the Kelyenmagategma community from their lands in the Department of Presidente Hayes and that a private company seized their land. It further reported that the families had not found new homes and were living without shelter. In October, the Inter-American Court of Human Rights ruled that the Government should take steps to protect and assist the community, conduct a criminal investigation, and return the families to their ancestral lands. The Government provided security personnel to protect the community and building materials to construct basic shelter and met with the community to discuss a possible criminal investigation and the eventual return of the families to their ancestral lands.

Section 6. Worker Rights

a. The Right of Association.—The Constitution allows both private and public sector workers (with the exception of the armed forces and the police) to form and join unions without government interference, and workers exercised this right in practice. The Constitution contains several provisions that protect fundamental worker rights, including an anti-discrimination clause, provisions for employment tenure, severance pay for unjustified firings, collective bargaining, and the right to strike. Approximately 121,000, or 15 percent, of workers were organized in approximately 1,600 unions.

In general, unions were independent of the Government and political parties. One of the country's three labor centrals, the Confederation of Paraguayan Workers (CPT), was aligned closely with the ruling Colorado Party.

All unions must be registered with the Ministry of Justice and Labor. Although the official registration process was cumbersome and could take a year or more due to government bureaucracy, the Ministry of Justice and Labor issued provisional registrations within weeks of application. Employers who wish to oppose the formation of a union can delay union recognition by filing a writ opposing it. However, almost all unions that requested recognition eventually received it.

The Constitution prohibits anti-union discrimination, but the law was not always enforced. The harassment of some union organizers and leaders in the private sector continued. Fired union leaders may seek redress in the courts, but the labor tribunals were slow to respond to complaints. A number of cases involving union leaders fired as many as 9 years ago remained pending in the courts. Although the courts typically favored employees in disputes, backlogs in the judicial system delayed cases for several years. As a result, most employees could not afford the time and expense of seeking judicial redress. The courts were not required to order the reinstatement of workers fired for union activities. In some cases, when judges ordered the reinstatement of discharged workers, employers continued to disregard the court order with impunity. The failure of employers to meet salary payments also frequently precipitated labor disputes.

There were also complaints that management created parallel or "factory" unions to compete with independently formed unions. There were several cases of workers who allegedly chose not to protest due to fear of reprisal or anticipation of government inaction.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining, and this provision was generally respected in practice. According to the Ministry of Justice and Labor, there were approximately 30 collective bargaining agreements in place, covering approximately 10 percent of private sector employees and 60 percent of public sector employees; however, the agreements typically did little more than reaffirm minimum standards established by law. When wages were not set in free negotiations between unions and employers, they were made a condition of individual offers of employment.

The Constitution provides for the right to strike, bans binding arbitration, and prohibits retribution against strikers and leaders carrying out routine union business; however, employers often took action against strikers and union leaders. Voluntary arbitration decisions are enforceable by the courts, but this mechanism rarely was employed. Senior Ministry of Labor officials were available to mediate disputes.

There were numerous strikes by members of all three worker centrals and smaller unions. Many of the strikes were related to the firing of union officials, management violations of a collective contract, management efforts to prevent the free association of workers, or demands for benefits such as payment of the minimum wage or contribution to the social security system. Others were directed at broader economic issues.

There are no export processing zones. Maquiladora factories, which assemble imported parts for re-export, operated in the eastern part of the country. The Mercosur trade association accepted the country's maquiladora factories into its automotive regime. The country's labor laws apply to maquila operators.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, cases of abuse of national service obligations (compulsory military service for all males, unless exempted as conscientious objectors) occurred, as there were reports of conscripts forced to work as construction workers for military officers in their privately owned businesses.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Director General for the Protection of Minors in the Ministry of Justice and Labor is responsible for enforcing child labor laws; however, in general, the Government did not enforce minimum working age regulations, and child labor was a problem. Minors between 15 and 18 years of age may work only with parental authorization and may not be employed in dangerous or unhealthy conditions. Children between 14 and 15 years of age may work only in family enterprises, agriculture, or apprenticeships. The Labor Code prohibits work by children under 14 years of age.

According to 2001 census data, 5 percent of the workforce was under the age of 14. The Statistics Bureau reported that from August to December 2000, 55 percent of boys between the ages of 10 and 19 worked. According to the NGO Coeti, 265,000 children, or 13.6 percent of children between the ages of 5 and 17, worked outside their homes, many in unsafe conditions. In supermarkets, boys as young as age 7

bagged groceries and carried them to customers' cars. They were not employees of the stores and received no compensation other than tips. In August, several such boys died in a supermarket fire. Thousands of children in urban areas, many of them younger than 12 years of age, were engaged in informal employment, such as selling newspapers and sundries and cleaning car windows. Many of the children who worked on the streets suffered from malnutrition and disease and lacked access to education. Some employers of the estimated 11,500 young girls working as domestic servants or nannies denied them access to education and mistreated them. In rural areas, children as young as 10 years of age often worked beside their parents in the field; according to Coeti, 88 percent of rural children in the labor force worked at home or with family members. Local human rights groups did not regard families harvesting crops together as an abuse of child labor.

e. Acceptable Conditions of Work.—The executive, through the Ministry of Justice and Labor, established a private sector minimum wage sufficient to maintain a minimally adequate standard of living for a worker and family. There was no public sector minimum wage. In practice, most (but not all) government agencies adjusted the hours of work for government workers to be paid at a rate comparable to the private sector minimum wage. The minimum salary is adjusted whenever annual inflation exceeds 10 percent, and has been approximately $162 (972,000 guaranies) per month since 2002. However, the Ministry of Justice and Labor was unable to enforce the minimum wage and estimated that 50 percent of workers earned less. The Labor Code requires that domestic workers be paid at least 40 percent of the minimum wage and allows them to work up to a 12-hour day.

The Labor Code allows for a standard legal workweek of 48 hours (42 hours for night work), with 1 day of rest. The law also provides for an annual bonus of 1 month's salary and a minimum of 6 vacation days a year. The law requires overtime payment for hours in excess of the standard. However, many employers violated these provisions in practice. There are no prohibitions on excessive compulsory overtime. Workers in the transport sector routinely staged strikes to demand that their employers comply with the Labor Code's provisions on working hours, overtime, and minimum wage payments.

The Labor Code also stipulates conditions of safety, hygiene, and comfort. The Government did not devote sufficient resources to the Ministry of Justice and Labor and the Ministry of Health to enforce these provisions effectively.

Workers have the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, but they may not do so until the Ministries of Justice and Labor and Health recognized such conditions formally. Although there are laws intended to protect workers who file complaints about such conditions, many employers reportedly took disciplinary action against them.

In the wake of the August 1 fire at the Ycua Bolanos supermarket in Asuncion (*see* Section 6.d.), the national and municipal governments began a campaign to ensure the safety of supermarkets and shopping centers, in particular, requiring them to install more emergency exits and to ensure that they were accessible to customers and to employees.

PERU

Peru is a multiparty republic. In 2001, Alejandro Toledo of the Peru Posible party won the presidency in elections that were widely regarded to be free and fair. Although the judiciary was widely perceived to be corrupt and inefficient, it is independent.

The Peruvian National Police (PNP) and the military shared responsibility for internal security and were under effective civilian control. There were several instances of serious human rights abuses committed by members of the security forces.

The country had a market-oriented economy and a population of approximately 27.5 million. Banking, retail services, agriculture, mining, manufacturing, and fishing were key economic sectors. The estimated real gross domestic product growth was 4.5 percent. The poverty rate was 54 percent, and 24 percent of the population lived under conditions of extreme poverty. Unemployment and underemployment totaled 56 percent, and the Government lacked revenues for social investment. Wages and benefits rose faster than inflation in Lima.

The Government generally respected the human rights of its citizens; however, there were serious problems in a number of areas. Police on occasion tortured, beat,

and otherwise abused detainees. Prison security forces abused inmates, and abuse of military recruits continued. Impunity remained a problem, and security forces sometimes harassed victims or other witnesses to keep them from filing charges. Overall prison conditions remained poor and were extremely harsh in maximum-security facilities. Pretrial detention continued to be prolonged, and trials frequently were subject to inordinate delays. Local authorities and other pressure groups, including coca growers, sought to influence the media through harassment and threats of legal action; however, the media were active and generally independent. Violence and discrimination against women continued. Violence against children and discrimination against persons with disabilities, indigenous people, and minorities remained problems. Trafficking in persons was a problem, which the Government took steps to address. Labor leaders asserted that some labor laws unduly restricted collective bargaining rights. Child labor remained a serious problem in the informal sector.

The terrorist organization Shining Path (Sendero Luminoso) was responsible for killings and other abuses.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings by the Government or its agents. There were no reports of unlawful or unwarranted killings by police. Two military recruits died under possibly suspicious circumstances during the year, compared with four such cases in 2003. Unlike in the previous year, there were no reports of death from torture.

Police killed two protesters during the October 19 takeover of a hydroelectric dam in Puno by coca growers (cocaleros). Reportedly, the two cocaleros, Mauro Pepe Surco Palomino and Florencio Quispe Coaquira, were killed when they tried to seize weapons from police officers in charge of clearing the dam. Two police officers were also wounded in the clash.

On October 7, the Sixth Court of Chincha sentenced four agents of the National Penitentiary System to 5 years in prison for the 2001 killing of inmate Esteban Minan Castro.

During the year, authorities opened a criminal case against four police officers accused of the 2003 torture and killing of Edgar Lopez Sancarranco. The case remained in the instruction phase (the first part of a criminal case) at year's end.

At year's end, the Cuzco Prosecutor was investigating as a homicide the 2003 death in custody of Julio Alcazar Dolmos.

There were no further developments in the 2003 cases of Leonel Sanchez Rivero, killed by police gunshot in July, and Freddy Campos Avendano, who died from a gunshot at his military barracks in September.

In August, a court found three members of the security forces guilty of the 2002 killing of Jose Reina Rincon. They were awaiting sentencing at year's end.

At year's end, there were no new developments and none was expected in the 2002 case of the death of a protester in San Clemente.

At year's end, the Provincial Prosecutor of Canta was investigating police involved in the 2002 death of Gerardo Adrianzen Otarola on charges of abuse of authority and torture.

At year's end, there were no new developments and none was expected in the trials of the police officers charged with manslaughter in the 2002 deaths of Edgar Pinto Quintanilla, Fernando Talavera Soto, and William Santos Tuesta.

On June 23, Peter Vasquez Chavez, a 23-year-old military recruit at the Cangari-Huanta Military Base in Ayacucho, was found dead. The military alleged that Vasquez Chavez died as a result of an attack by Sendero Luminoso. According to local residents, there was no such attack that day. The Public Ministry autopsy found that Vasquez Chavez died from a knife injury. A second autopsy by the army concluded that bullets killed Vasquez Chavez but did not mention a Sendero Luminoso attack. The case remained under investigation at year's end.

On October 3, Army corporal Edgar Ledesma Lopez was found dead in the military barracks of Puqio in Ayacucho. Military sources alleged that Ledesma hanged himself by his bootlaces, but area residents questioned this version of events. A police investigation was pending at year's end.

At year's end, there were no new developments in the 2003 case of the killing of Edy Quilca Cruz and the injuring of 30 other persons by soldiers that fired on a group of protesting students.

Lima's Northern Cone Prosecutor was investigating the 2003 beating and death of Army recruit, Corporal Magno Ariza Paitan, at year's end.

The investigations into the 2003 deaths of recruit Henry Dante Martinez Ayala and Corporal Jhon Lenon Olortegui Perea remained ongoing at year's end.

Prosecutors appealed a 2003 acquittal in the 2000 murder case of Air Force recruit Jose Luis Poma Payano, and the Fifth Penal Court of Lima ordered a retrial of the case. There were no further developments by year's end.

The Government continued to arrest members of La Colina death squad. Since 2001, authorities have arrested 13 members of the group. All former La Colina group members in custody were awaiting trial at year's end.

The case involving charges of extrajudicial killing in the 1997 rescue of 74 hostages at the Japanese ambassador's residence continued to progress through the judicial system. In 2002, the Supreme Court decided that the military court system had jurisdiction in the case of the commandos who carried out the attack. The Court also ruled that four others—former Intelligence Service Director Vladimiro Montesinos, former Armed Services Chief General Nicolas Hermoza, Colonel Roberto Huaman, and Colonel Jesus Zamudio—were subject to civilian criminal court jurisdiction in this case. In May, the Supreme Court of Military Justice officially closed the case against the commandos, concluding that the commandos had acted properly in the operation and that the MRTA terrorists killed had died in combat. At year's end, Montesinos (who has been convicted on other criminal charges), Hermoza, Huaman, and Zamudio were in custody, and the courts had completed the instruction phase of the case.

At year's end, a private group was conducting forensic research on the remains of the victims of the 1986 massacre of inmates at El Fronton jail. In November, the Prosecutor's Office filed charges against 11 marines allegedly responsible for carrying out the massacre, and the case was pending in the courts at year's end. Some human rights groups complained that the accusations in this case should have been directed at higher authorities, including then President Alan Garcia and his Minister of the Interior, so as to determine who ordered the killings.

In December 2002, the Truth and Reconciliation Commission (TRC) issued its first official report of a 1980 massacre where soldiers allegedly tortured and killed eight peasants in Chuschi, near Ayacucho. In April 2003, a criminal judge in Cangallo opened a trial against two army officers and five police officers for this crime. The Ministry of Defense also opened a trial in military court against the same officers. Whether military or civilian courts had jurisdiction in the case remained unresolved at year's end.

The terrorist group Sendero Luminoso continued to kill civilians as well as military and police officials. There were 120 terrorist incidents from January to December, the vast majority of which occurred in Junin, Huanuco, and Ayacucho, rural areas that historically suffered from Sendero Luminoso's violence. On June 4, Sendero terrorists killed two policemen and one navy non-commissioned officer in Aguaytia, Ucayali.

On February 14, a reporter was killed, allegedly at the orders of a local mayor in Yungay (*see* Section 2.a.). In April, protesters lynched the mayor of Ilave, whom they accused of corruption (*see* Section 2.b.).

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

In April 2003, PNP Commander Juan Carlos Mejia Leon and PNP officers Antonio Lopez Trujillo, Atanulfo Zamora Garcia, and Victor Eduardo Marquino Alvarado were charged with the kidnapping of a student who disappeared after being detained by the PNP in 1990 as a suspected terrorist. During the year, four members of the security forces were charged with the 1990 kidnapping and disappearance of Ernesto Rafael Castillo Paez. They were awaiting trial at year's end.

The trial of 11 policemen for the 2003 disappearance of Andy Williams Garces was ongoing at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the law prohibit such practices; however, there were reports of torture of detainees and the excessive use of force against protesters. Abuse of military recruits remained a problem. The authorities who allegedly committed abuses were seldom held responsible.

Torture often occurred immediately following arrest, when families were prohibited from visiting suspects being held incommunicado and when attorneys had only limited access (*see* Section 1.d.).

In some cases, police and security forces threatened or harassed victims, their relatives, and witnesses in an attempt to keep them from filing charges of human rights violations. According to Amnesty International (AI) and the Human Rights Commission (COMISEDH), some victims were reluctant to pursue judicial proceedings against their abusers, fearing that the abusers would be released without

being charged. COMISEDH reported 22 cases of aggravated torture by security forces, compared with 10 in 2003.

On January 22, John Robert Osorio Morales went to the police station in Montserrate with a friend to try to resolve a dispute between them. At the station, police officers allegedly detained and beat Osorio, handcuffing him to a pole for more than an hour. COMISEDH filed charges of torture against the police officers involved, and the case was under preliminary investigation at year's end.

On August 28, police in Lima detained two brothers, Pablo Fabio and Miguel Sanchez Conde, who were suspected of planning to rob a local restaurant. After their detention, police beat the two suspects, abuse that was confirmed by a medical exam. The police involved in the case were under judicial investigation for torture at year's end.

On September 13, the Prosecutor lodged charges of torture against the prison guards in the 2003 beating case of inmate Wilder Escobedo Contreras. The case was in the judicial instruction phase at year's end.

During the year, there were the following developments in cases from 2003 of alleged abuse: John Paolo Alvino Ricalde and his family withdrew their complaint of his beating by police, COMISEDH alleged that the family did so out of fear of police retribution. A prosecutor dismissed the charges against prison guards for lack of evidence in the alleged abuse of inmate Richard Coronado Calderon. A prosecutor charged Piura police officers with the torture of six members of community self-defense groups in 2003; at year's end, the case was in the instruction phase, and the six community self defense members also were accused of abuses and remained in detention at year's end.

In September 2003, in Challapalca Prison in Tacna, several guards allegedly took a prisoner from his cell and beat and tortured him for 2 days. He was held in the prison's hospital clinic for 8 days before being returned to his cell. The case remained under investigation at year's end.

The 2003 case of the alleged torture by prison guards of Miguel Angel Vela del Aguila remained under judicial investigation at year's end.

The 2002 case of alleged torture by police officers of Renzo Vega Hidalgo was in the instruction phase in the Second Court of Lima at year's end.

The police involved in the 2002 beating of Jair Martin Rodriguez and his brother were accused of torture, and the case was awaiting issuance of formal charges by the prosecutor at year's end.

The trial of six prison guards in the 2002 beating of inmate Alfonso Valle Oquendo was ongoing at year's end.

Nongovernmental organizations (NGOs) and the Human Rights Ombudsman continued to receive complaints that military officers beat or otherwise abused some lower-ranking soldiers. There were two reported incidents in which military recruits died under suspicious circumstances (*see* Section 1.a.).

Soldier Freddy Cardenas Maucaylle dropped charges against a superior officer for an alleged 2002 beating in Andahuaylas. There were reports that Maucaylle was paid to drop the case.

The criminal court trial of the three military officers who allegedly drugged and sexually assaulted a soldier in the barracks in Ayacucho in 2002 was ongoing at year's end. The officers were charged with torture and obstruction of justice.

In March, a court issued a 4-year suspended sentence to Raul Ochoa Ravello for aggravated torture in the 2002 assault of a soldier and ordered payment of approximately $1,200 (4,152 soles) in damages to the victim. Ochoa appealed the decision to the Supreme Court, where it remained at year's end.

Citizens at times took the law into their own hands, meting out severe physical punishment to persons suspected of committing offenses such as robbery, burglary, rape, and child molestation. According to police statistics, during the year, there were almost 2,000 such incidents, resulting in 19 deaths. The majority occurred in the countryside, although Lima registered an increase (to 695) of cases where mobs seized and punished suspected thieves. Local experts explained that lack of police presence and lack of faith in the justice system had led to outbreaks of violence against suspected criminals. Persons seized were beaten, tied to lampposts, and sometimes sprayed with gasoline and set afire.

Prison conditions varied greatly. For prisoners without funds, conditions were poor to extremely harsh in all facilities. Prisoners with funds had access to a range of amenities. For example, they could dine in restaurants within the prisons or could even receive meals sent to them from the outside. Overcrowding, lack of sanitation, and poor nutrition and health care were serious problems. Inadequate training of security forces and lack of control within the prison system also were serious problems. Inmates in all prisons had only intermittent access to running water; bathing facilities were inadequate; kitchen facilities remained generally unhygienic;

and prisoners slept in hallways and common areas due to lack of cell space. Illegal drugs were abundant in many prisons, and tuberculosis and HIV/AIDS were reportedly at near-epidemic levels. For regular inmates, prison authorities budgeted only approximately $0.70 (2.4 soles) per prisoner per day for food. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 7,000 prisoners lived in a facility built to accommodate 1,500.

The International Committee of the Red Cross (ICRC) reported a shortage of trained medical personnel, unreliable and insufficient legal representation for prisoners, an insufficient number of social workers and psychologists, and a general lack of organization in prison administration.

Conditions were particularly harsh in maximum-security facilities located at high altitudes. Human rights monitors, including AI, asserted that the Challapalca Prison in Tarata, Tacna, seriously violated international norms and standards, particularly as a result of its isolation and 14,000-foot altitude. According to the Ombudsman' Office, the Government has progressively closed the Challapalca Prison, and, at year's end, it held only 4 inmates, compared with 200 inmates in 2000.

Although there were no reports of security forces killing inmates, prison guards and fellow inmates reportedly routinely victimized and abused prisoners. Corruption was a serious problem among poorly paid prison guards, some of whom reportedly engaged in sexual abuse, blackmail, extortion, narcotics trafficking, and the acceptance of bribes in exchange for favors.

Detainees were held temporarily in pretrial detention centers located at police stations, judiciary buildings, and, in large cities, at the Public Ministry. Detainees are to spend a maximum of 24 hours in these areas after which time they are to be released or formally charged. Persons detained for espionage, drug trafficking, and terrorism may be held for a longer period, up to 15 days. During their time in detention, detainees are to have access to food, water, fresh air, and communications with family and counsel. The Public Ministry oversees the detention centers, whose conditions are also monitored by the Ombudsman's Office.

In practice, the above norms often were not fully realized. Persons detained in remote areas were sometimes held for longer periods due to difficulties in getting access to counsel and formulating charges. Some remote, rural police stations also lacked basic facilities. In general, oversight of pretrial detention centers was more effective in the cities than in rural areas.

Male and female prisoners were held separately. In high security prisons, female inmates were allowed to see their children once a week. For regular prisoners, conjugal visits were permitted for men and women. In women's prisons, children 5 years of age and younger lived with their jailed mothers. There were also separate juvenile facilities, in which conditions were not as harsh as those in adult prisons. Pretrial detainees were held together with convicted prisoners in most cases.

The Government permitted prison visits by independent human rights observers, including the ICRC. The ICRC made 125 unannounced visits to inmates in 59 different prisons, detention centers, and juvenile detention facilities during the year.

d. Arbitrary Arrest or Detention.—The Constitution, Criminal Code, and anti-terrorist statutes prohibit arbitrary arrest and detention, although the Organic Law of the PNP permits police to detain a person for any investigative purpose. The Constitution requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. Only judges may authorize detentions, including in corruption cases. Authorities are required to arraign arrested persons within 24 hours. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas, this must be accomplished as soon as practicable.

The PNP, with a force of 92,000, was responsible for all areas of law enforcement in the country. It functioned under the authority of the Minister of the Interior, a cabinet-level position. The PNP's personnel structure follows that of the military, with an officer corps and enlisted personnel. The organizational structure is a mixture of directorates that specialize in specific areas (such as kidnapping, counternarcotics, and terrorism) and local police units. Each department, province, city, and town has a PNP presence.

The PNP was considered undermanned, had problems with professionalism, and was often ineffective against common criminal activity, and unable at times to meet its mandated responsibilities, such as witness protection. Corruption and impunity were problems.

The Interior Ministry and the PNP attempted to address these weaknesses. In August 2003, the PNP formed the Green Squad, a special unit to fight street crime in response to citizen complaints when local police proved ineffective. The Green

Squad was particularly effective in raiding clandestine brothels that were often engaged in trafficking in persons as well as other crimes (*see* Section 5, Trafficking).

The PNP also worked with a local human rights NGO, the Peruvian Institute for Education in Human Rights and Peace, which trained 531 officers in human rights in 5 regions of the country.

The law requires police to report to the Public Ministry within 24 hours whenever a suspect is arrested while committing a criminal act. The Public Ministry, in turn, must issue a report assessing the legality of the police actions.

The law allows the authorities to detain suspects in investigations for corruption for up to 15 days without arraignment and permits authorities to prohibit such suspects from traveling abroad. Police may detain terrorist suspects for a maximum of 15 days and hold them incommunicado for the first 10 days.

The law provides the right to prompt judicial determination. On average, 20 hours elapse between the time that a person is detained and the person's appearance before a judge. Judges then have 2 hours to decide whether to release or continue to detain the suspect.

There was a functioning bail system; however, economic limitations prevented many defendants from posting the required payments.

Criminal detainees are allowed prompt access to a lawyer and to family members.

In August, the Justice Ministry launched a program, Free Legal Assistance, to establish offices across the country where indigent persons could access attorneys' advice at no cost. The first two of nine such offices were opened in San Juan de Miraflores and Los Olivos, with a public defender lawyer and a mediator available for consultations. Along with the legal defense offices, the Ministry set up a toll-free legal defense hotline, which started operation in October.

Lengthy detention before trial and sentencing was a problem. According to a study prepared by the Technical Secretary of the Special Commission for Integral Reform of the Justice System (CERIAJUS), of 29,581 person held in prison, only 30.8 percent actually had been sentenced, while 69.2 percent were cases still being tried. If prisoners are held more than 18 months (or 36 months in more complex cases) without being sentenced, they are released.

During the year, judges in charge of processing criminal cases implemented standards promulgated in 2003 by the Executive Council of the Judiciary to streamline case handling procedures and accelerate trial processing. As part of the reform process, the Superior Court of Lima completed an inventory of cases in its 14 districts and 6 criminal courts with pretrial detainees, which identified various bottlenecks in the processing of pending cases. For example, it took almost 2 years on average for a case to move from initiation to sentencing. The longest delay came in the period of preparation for oral hearings, which often lasted 3 months. The Superior Court of Lima used the results of the case inventory to design a plan to reduce delays in the processing of oral cases and began to implement a backlog reduction program.

In July, a new Criminal Procedures Code was approved, which will take effect gradually, entering into full application in February 2006. The Code establishes an accusatory system for criminal cases that divides the processing of such cases into three phases: The preparatory investigation, the hearings phase, and sentencing. Under the new system, judges, prosecutors, and police will assume added duties, which will require extensive training.

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

The three-tier court structure consists of lower and superior courts, and a Supreme Court of 30 judges. A Constitutional Tribunal of seven members operates independently of the Judicial Branch. The independent National Judicial Council (CNM) appointed, disciplined, and evaluated all judges and prosecutors who have served in their position for 7 years or more. Failure to be certified by the CNM disqualified a judge or prosecutor from working in that capacity again. Several of the more than 100 judicial officials failing to gain certification filed complaints with the Inter-American Commission on Human Rights (IACHR) that this certification process was unfair. In September, the Ministry of Justice created a high-level commission to find a solution to the problem of judicial officials who were not qualified to be presented to the IACHR, and its work continued at year's end.

Judicial reform continued to be a priority of the Government, but implementation was irregular. CERIAJUS members include the President of the Supreme Court of Justice, the Attorney General, the president of the National Judicial Council, a representative of the Constitutional Tribunal, the president of the Judicial Academy, the Minister of Justice, the Ombudsman, two representatives of the Justice and

Human Rights Commission of Congress, and five representatives of civil institutions participating in the National Accord.

In April, CERIAJUS presented its national plan to reform the justice system, and, by year's end, the Judicial Branch had set up two follow-up commissions to focus on two specific issues recommended by CERAIJUS: Legislation providing a career system for judges and prosecutors and a system to organize and publicize jurisprudence. On December 28, the commission charged with drafting legislation dealing with judges and prosecutors' careers presented its plan to the Plenary of the Supreme Court of Justice. The second commission recommended the inclusion in the judicial website of the rulings of the Supreme Court of Justice. As a result, 1,000 decisions were posted in the judiciary web site, and the judiciary continued scanning 9,000 more Supreme Court decisions for posting on its website.

In September, the Executive Branch created a Special Commission consisting of six jurists to oversee the implementation of the national plan for justice sector reform.

Since its reestablishment in 2000, the CNM has carried out eight selection processes for judges and prosecutors, including the naming of four justices to the Supreme Court. Reform efforts reduced the percentages of provisional justices and prosecutors from 84 percent of judges and 73 percent of prosecutors in 2001 to 27 percent and 35 percent, respectively.

The justice system is based on the Napoleonic Code. In civilian courts, criminal cases moved through three distinct phases. First, a prosecutor investigated cases and submitted an opinion to a first instance judge, who determined whether there was sufficient evidence to open legal proceedings. If there was, the judge conducted an investigation and, in over 90 percent of cases, determined facts, guilt or innocence, and issued a sentence. In some cases, particularly those involving violence or public officials, the law requires that the first instance judge pass the results of the investigation to the superior court for a trial before a three-judge panel. Anyone convicted and sentenced by a first instance judge may appeal to the Superior Court and then to the Supreme Court. All defendants have the right to be present at their trial. Defendants also have the right to counsel, although the public defender system often failed to provide indigent defendants with qualified attorneys.

There was a presumption of innocence, defendants could call witnesses, and attorneys had unimpeded access to their clients.

Under the military justice system, judges in the lower courts had the power to sentence and were required to pass judgment within 10 days of a trial's opening. Defendants could then appeal their convictions to the Superior Military Council, which had 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its ruling within 5 days. At the Superior Military Council and Supreme Council levels, a significant number of judges were active-duty officers with little or no professional legal training.

On August 24, the Constitutional Tribunal ruled, in a case brought by the Ombudsman, that the military-political commands created to maintain order during states of national emergency were not constitutional. The Tribunal held that the commands would be only military commands and not structures that displaced those of legitimately constituted local authorities. The Constitutional Tribunal also ruled that cases involving human rights violations committed by military or police forces had to be judged in civilian courts as common crimes and could not be regarded as strictly military matters subject to military justice.

On December 2, the Inter-American Court of Human Rights ruled that the 2001 civilian court trial conviction of U.S. citizen Lori Berenson on charges of collaboration with the Tupac Amaru Revolutionary Movement (MRTA) terrorist group was fair.

Before the Inter-American Court of Human Rights could rule in the cases of Maria Teresa de la Cruz and Wilson Garcia Asto, the Government, through the Anti-Terrorist Court, initiated a study of both cases that led to their release in August.

During the year, in accordance with the decisions of both the Inter-American Court of Human Rights and the Constitutional Tribunal, the Special Terrorism Court continued to re-try defendants previously convicted by military tribunals. The Terrorism Court handed down 250 sentences. Another 307 cases remained to be decided. The Terrorism Court convicted 65 percent of those accused. It absolved 600 persons as a result of sentences completed, time off granted for cooperation, and lack of substance to the charges against them. At year's end, there were 1,400 people in prison sentenced for having committed acts of terrorism. The trial of Sendero Luminoso leader Abimael Guzman in civilian court was ongoing at year's end.

As a follow-up to the recommendations put forward by the Truth and Reconciliation Commission (TRC), the NGO Institute for Legal Defense (IDL), in cooperation

with the Special Terrorism Court, completed a study in September of the official list of those wanted for terrorism and found that there remained a backlog of 51,684 summons or orders for capture against 12,582 suspects allegedly involved in terrorism.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were reports that the authorities did not always obtain warrants before entering private dwellings.

There were reports that some young men from poor, rural areas, who were unaware that military service was no longer mandatory, were taken into military service when they went to register. Also, in some rural areas, families reported to human rights NGOs that their sons were taken into the military before they turned 18, which the military explained by saying that young men who were eager to join their ranks sometimes lied about their age.

There were no reports of forced conscription by the MRTA terrorist organization, most of whose surviving members were in prison. A second terrorist organization, Sendero Luminoso, continued to coerce indigenous persons to join its ranks (*see* Section 5).

Cases claiming monetary compensation, as recommended by the IACHR, for women sterilized under a Fujimori-era program, remained under consideration at year's end.

Section 2. Respect for Civil Liberties, including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom; however, there were multiple reports of press harassment by provincial authorities or from private groups or organizations such as protesting coca growers (cocaleros). Harassment took the form of attacks on journalists, illegal arrests, or threats of judicial action. Two reporters, Alberto Rivera and Antonio de la Torre, were killed; local officials were suspects in both slayings.

The press represented a wide spectrum of opinion, including those in favor of and in opposition to the Government. In the greater Lima area, there were 25 daily newspapers, 7 television stations, 65 radio stations, and 2 news channels on 2 commercial cable systems. There were numerous provincial newspapers, television, and radio stations. All were privately owned except for one government-owned daily newspaper, one government-owned television network, and one government-owned radio station.

On July 15, the Government approved a new Radio and Television Law, which went into effect in November. Although the law was aimed at more impartial media regulation, critics said that it gave excessive regulatory power to the Transportation and Communications Ministry and that it did not address adequately the problem of payoffs to journalists and media moguls, the problems that motivated the law in the first place. Regulations for the law were not published by year's end.

Journalists and media outlets reportedly were intimidated during the year. According to the National Journalists Association, 2 reporters were killed and 121 cases of harassment were reported (mainly in the provinces), which was approximately 3 times the number of harassment incidents reported in 2003. The Press and Society Institute issued 72 alerts on these cases. The majority of these incidents took the form of verbal or physical violence, threats, judicial pressure, restrictions on freedom of information, and charges of slander from local politicians, civilians, police, military officials, or unknown persons. They reflected the general lack of effective state presence in many parts of the countryside.

On February 26, Huanuco regional president Luzmila Templo, filed suit against the managing editor of the country's most important daily, El Comercio, for reporting on Templo's links with cocalero leaders.

In March, the Specialized Anti-Corruption Criminal Provincial Prosecutor accused opposition daily La Razon of attacks against public peace and calm, conspiracy, and assaults on the constitutional order for its February 4 front-page article on an alleged audiotape of a 2000 meeting between President Toledo and Valdimiro Montesinos. Members of the Government cited this incident to support their allegations that Montesinos continued to influence some elements of the media. Montesinos had been photographed on February 3 making notes at his trial that suggested the theme of the audiotape that became the subject of La Razon's story the following day. President Toledo stated that La Razon's report was false. Eight of the newspaper's journalists resigned in protest of Montesinos' alleged continuing influence over La Razon. An investigation by the Attorney General's office was pending at year's end.

On April 20, Rocio Vasquez, a Chimbote reporter, claimed that she had received a death threat for denouncing a fishing industry magnate, who denied the charges. Later, Vazquez resigned from her job at the Chimbote daily Ultimas Noticias, stating that the paper had blocked her investigations regarding the same individual.

On May 6, Alejandro Miro Quesada Garland, publisher of El Comercio; his son, Alejandro Miro Quesada Cisneros, the managing editor; Fernando Ampuero, the director of El Comercio's investigative unit; and Miguel Ramirez, a member of the investigative unit, denounced a $100 million (346 million soles) lawsuit filed against them by alleged narcotics trafficker Fernando Zevallos.

On February 14, David Moises Julca, the fiance of local mayor Amaro Leon's daughter, killed Antonio de la Torre, a reporter with Yungay's Orbita radio station who had been investigating local political corruption. Leon was accused of paying Moises Julca to kill de la Torre and, on March 18, was arrested in connection with the killing. At year's end, police had not yet located Julca.

On March 23, a group of unknown persons entered the studio of the Lider radio station and stole the station's broadcasting equipment. The station had accused Ilo mayor Jorge Mendoza of corruption, nepotism, and destruction of the environment. Mendoza sued the station for slander. As a result of the theft, Lider was off the air for 1 week.

On March 25, the brothers Mendel and Samuel Winter, two former minority shareholders of TV Channel 2, were sentenced to 5 years in prison for having accepted bribes from Vladimiro Montesinos. They were set free soon afterward because they had cooperated with prosecutors and had completed two-thirds of their sentence. On June 26, a court ordered Channel 2 to return $3.74 million (12.94 million soles) that Vladimiro Montesinos had given to Samuel and Mendel Winter to increase the station's capital. Montesinos himself was convicted, fined, and sentenced to a 15-year prison term for various abuses of office (*see* Section 3).

On April 21, Alberto Rivera, the anchorman of Pucallpa's "Frecuencia Oriental" radio station, was killed by two unknown persons. An investigation continued at year's end.

On May 31, Huaraz reporters Edgar Palma and Javier Pomaillo publicly denounced alleged telephone death threats they had received from persons who said they belonged to the municipality of Huaraz and to the Ancash regional president's office. The two reporters had been investigating corruption complaints against officials working in both offices.

On June 28, Ayacucho reporter Jose Atauje received death threats from persons who said they belonged to the Central Regional Committee of Ayacucho, after the reporter had disseminated an interview with Shining Path leaders.

On May 20, customs officials prevented British reporter Sally Bowen from leaving the country because of an arrest order originating from the defamation suit filed by accused narcotrafficker Fernando Zevallos. Zevallos also filed a claim against the U.S. reporter Jane Holligan, seeking $10 million (34.6 million soles). Holligan and Bowen had collaborated on a book, "The Imperfect Spy," in which they cited accusations of drug trafficking by Zevallos.

On January 30, a court declared reporter Juan de Mata Jara innocent of charges of terrorism that had been brought against him under the Fujimori regime, and he was released the next day.

In January, Congressman Jorge Mufarech sued Pedro Salinas, a daily Correo columnist, for $1 million (3.46 million soles) for defamation, for articles Salinas had published in 2002 and 2003. Salinas claimed this action sought to silence his criticism of Mufarech and the Government.

There were no government restrictions on the Internet.

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

The law does not require a permit for a public demonstration; however, organizers must inform the Ministry of Interior's political authority (prefect) about the kind of demonstration and its location. Demonstrations could be prohibited for reasons of public safety or health. The police used tear gas and occasional force to disperse protesters in various demonstrations during the year.

Although most demonstrations were peaceful during the year, protests in some areas turned violent. In April, protesters lynched the mayor in Ilave, whom they accused of corruption. The deputy mayor and four other persons were arrested and charged with the killing. In October, police used force to clear a group of cocaleros from a hydroelectric dam in San Gaban in Puno Province. Two protesters were killed when they reportedly tried to seize PNP officers' weapons (*see* Section 1.a.).

Two police officers were also wounded in the clash. In August, the Ombudsman's office issued a report that noted the prevalence of rural unrest (*see* Section 4).

On September 13, a crowd of 500 protesting students at the National Engineering University tossed rocks and sticks at police officers, briefly seized 3 officers, beat them, and took away their helmets and parts of their uniforms. Some students also tried to crash a university truck into a police wagon. Police responded with tear gas and cleared many university buildings of demonstrators.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Catholic Church received preferential treatment from the Government. The Constitution establishes the separation of church and state but also acknowledges the Catholic Church's role as "an important element in the historical, cultural, and moral development of the nation." The Catholic Church and Catholic clergy received extra benefits from the Government in education, taxation of personal income and institutional property, and remuneration. By law, the military could hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion of military personnel.

All faiths were free to establish places of worship, train clergy, and proselytize. Religious denominations or churches were not required to register with the Government or apply for a license. Missionaries could enter the country and proselytize.

In 2003, the Ministry of Justice established an Office of Ecclesiastical Affairs to be a link between the Ministry and the religious hierarchies of all faiths. Churches were asked to register voluntarily with the Ministry to receive tax benefits and exemption from import duties on religious materials.

The Ministry of Education required Catholic religion courses in all primary schools, public and private. Parents could request an exemption by writing to the school principal.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights of free movement; however, the authorities legally may restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Police could check travelers at control points throughout the country.

Sendero Luminoso occasionally interrupted the free movement of persons by setting up roadblocks in sections of the Upper Huallaga, Apurimac, and Ene River valleys.

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

The Constitution prohibits the revocation of citizenship. However, according to the Nationality Law, naturalized citizens may lose their citizenship for, among other reasons, committing crimes against the State, national defense, and public security, as well as for reasons that "affect the public interest and the national interest."

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared prosecution. The Government granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees in granting refugee status and recognized the Catholic Migration Commission (CMC) as the official provider of technical assistance to refugees. The CMC also advised citizens who feared persecution and sought asylum abroad. The Government provided protection to political refugees on a renewable, year-to-year basis.

At year's end, the CMC reported that 462 persons had requested asylum or refugee status since 2000, the majority of them originally from Colombia. The CMC had granted resident status to 116 of the 462 and rejected 12. At year's end, there were 902 refugees in the country.

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

The Constitution provides for the right of citizens to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of mandatory voting and universal suffrage (except for members of the armed forces and the police).

In 2000, President Valentin Paniagua took power and led a transition government after then President Alberto Fujimori resigned and was dismissed from office. In July 2001, President Alejandro Toledo assumed the presidency following a peaceful transfer of power through free and fair national elections held in April and June

2001. The two principal parties represented in the 120-member Congress were Peru Posible (37 seats) and APRA (28 seats).

Registration of a new political party requires the signature of 1 percent of the voters who participated in the past election. The presidential term is (5 years), and the Constitution prohibits the immediate reelection of a president. Groups that advocate the violent overthrow of the Government are barred from participating in the political process.

Corruption was a major problem, which the Government took steps to address. On January 3, the Labor Minister resigned after the Comptroller General presented a report that supported allegations of nepotism and influence peddling against him. During the year, the Anti-Corruption Courts handed down 14 final decisions. Two sentences, one of 9 years and 8 months in prison and the other for 15 years in prison, were entered against former President Fujimori's advisor, Vladimiro Montesinos, for various abuses of office. The Anti-Corruption courts continued to work on 143 cases that involved 1,453 defendants, only 7 percent of whom have arrest warrants. Since the creation of these courts, the Government has recovered more than $174 million (602 million soles) misappropriated during the Fujimori era. At year's end, an additional $82 million (283.7 million soles) was in the process of being recovered. The Judicial Branch extended the powers of the Anti Corruption Courts to take on new corruption cases, not just from the Fujimori era.

Pursuant to the Transparency and Access to Public Information Law, most Ministries and central offices provided key information on their web pages, and, in some offices, information requests were expedited. However, implementation of the law was incomplete, particularly in rural areas. In addition, there was a widespread lack of awareness of the law, and relatively few citizens understood and exercised their right to information. The Ombudsman's office made efforts to promote citizen awareness of transparency rights and to encourage regional governments to adopt transparency practices. In July, the Ombudsman's office issued its annual report that ranked regional governments in terms of transparency, citizen access to information, clear financial accounting, and ability to work with different social actors.

Women and some minorities participated actively in government and politics. There were 22 women in the 120-member Congress and 3 female regional presidents. Almost 3 percent of the mayors and 25 percent of the city council officers elected at the local level were women. There were two women in the Cabinet, the Attorney General was a woman, and there was one woman on the Supreme Court. The Law on Political Parties mandates that at least 30 percent of the candidate lists for electoral offices at all levels be women.

Traditionally, an elite minority of persons of European descent held most leadership positions in government. President Toledo was the country's first elected president of mixed Caucasian and indigenous ancestry. It was rare for indigenous persons, who make up more than one-third of the population, to hold high public office. Congress had one self-declared indigenous member. Three congressmen represented the Afro-Peruvian minority, estimated to be 3 to 5 percent of the total population, but there were no Afro-Peruvian Ministers.

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

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

According to COMISEDH, military commanders did not grant access to military facilities to human rights observers. To obtain information about activities in those areas, NGOs had to work through the Ombudsman's office.

The Government took some steps to implement recommendations in the August 2003 report of the Truth and Reconciliation Commission (TRC), which had stated that approximately 69,000 persons died during the armed conflict of 1980–2000. The TRC report concluded that the Sendero Luminoso terrorist group, motivated by a "genocidal ideology," carried out most of the political killings. During the year, the Government filed charges in 47 cases involving 150 persons whom the TRC identified as possible human rights violators, but most cases remained under prosecutorial investigation; only 16 persons have been formally charged. The Government also followed up on a TRC recommendation to create a multi-sectoral commission to oversee the implementation of proposals put forward by the TRC. In August, the Constitutional Tribunal ruled that military authorities could not assume political functions during states of emergency and that human rights crimes committed by the military must be tried in civilian and not military courts.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equal rights for all citizens and specifically prohibits discrimination based on ethnic origin, race, gender, language, opinion, or economic condition. However, discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persisted, although there was progress in a number of areas.

Women.—Violence against women, including rape, spousal abuse, and sexual, physical, and mental abuse of women and girls was a chronic problem. Abuses were aggravated by insensitivity on the part of law enforcement and judicial authorities toward female victims.

The law prohibits domestic violence, and penalties range from 1 month to 6 years in prison. The domestic violence law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home; authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence; and allows any health professional to certify injuries. The law requires police investigation of domestic violence to take place within 5 days and obliges authorities to extend protection to women and children who are victims of domestic violence.

During the first 5 months of the year, the Ministry of Women and Social Development (MIMDES) centers reported 13,191 cases of domestic violence. From 2002 until August, the centers assisted 78,163 victims (including men as well as women). The monthly average of reported abuse cases was approximately 2,500. Women constituted 88 percent of the victims.

The war against terror waged by the Government from 1980–2000 sharply increased the population in rural areas of war orphans and female rape victims, who often were stigmatized and marginalized in traditional regions such as Ayacucho.

The MIMDES and NGOs stated that many domestic abuse cases never were reported. NGO sources contended that the majority of reported cases did not result in formal charges due to fear of retaliation from the accused spouse or because of the cost involved in pursuing a complaint. In addition, legal and physical protection was limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

MIMDES ran the Women's Emergency Program, which focused on the legal, psychological, and medical problems facing women and children who were victims of domestic violence. At year's end, MIMDES operated 39 centers, which brought together representatives of various government institutions—police, prosecutors, counselors, and public welfare agents—charged with helping victims of domestic violence.

During the year, MIMDES continued a public education campaign to sensitize government employees and the citizenry to domestic violence. With NGO assistance, MIMDES trained police about gender issues, human rights, and domestic violence and instructed officers on processing domestic violence cases. MIMDES worked closely with the Women's Office of the Police Ombudsman. Nonetheless, the national Ombudsman's office continued to complain that officers reacted indifferently to charges of domestic violence, although the law requires all police stations to receive such complaints.

During the year, new laws increased the penalties for rape and for pimps and for clients of underage prostitutes. Rape is now punishable by a sentence of 4 to 8 years in prison. If the victim is between 14 and 18 years of age, or if the perpetrator uses a weapon or abuses his or authority to commit the crime, punishments range from 8 to 15 years in prison. If the victim is less than 14 years of age, punishments range from 20 years to life in prison. The new laws also more closely define trafficking in persons, criminalize Internet child pornography and sexual tourism involving children, and provide punishments for those who derive financial benefit from these activities. Penalties for pimps and clients of underage prostitutes range from 4 to 8 years in prison.

There were no current official statistics available on rape. Women's organizations noted that alcohol abuse and traditional attitudes subordinating women, particularly in rural areas, aggravated the problem of rape and sexual abuse.

Prostitution is legal for women over 18 years of age if they were registered with municipal authorities and carried a sanitary certification.

Sexual harassment was a problem. A 2003 law defined sexual harassment as a labor rights violation subject to administrative punishment. Punishments differ depending on the professional situation where the violation took place, such as in education or the private sector, domestic service, the armed forces, and the police.

The Constitution provides for equality between men and women, and 95 amendments to the Employment Promotion Law—as well as other laws relative to mar-

riage, divorce, and property rights—prohibit discrimination against women. Racial and sexual discrimination in employment advertisements or announcements of educational opportunities were prohibited; however, they continued to occur in practice. The law prohibits the arbitrary dismissal of pregnant women.

Traditional assumptions and misconceptions often impeded access by women to leadership roles in both the public and private sectors. Women primarily from the upper and upper-middle classes advanced in recent years into leadership roles in various companies and government agencies. Due to societal prejudice and discrimination, women historically suffered disproportionately from the country's pervasive poverty and unemployment.

Women's rights groups, such as Flora Tristan and Manuela Ramos, studied discrimination against women and suggested ways to address this problem, which often involved education and efforts to change traditional attitudes. During the year, Flora Tristan prepared a study, not yet published, on human trafficking in eight of the country's urban areas.

Children.—The Government was committed to children's rights and welfare.

The Government provided free, compulsory education through secondary school. Education was generally available throughout the country, but there was a shortage of qualified teachers, primarily in jungle regions. Fees for uniforms and books often were prohibitive for poor families. Largely because of widespread poverty, approximately one-third of all school-age children and adolescents worked during daytime hours rather than attended school. Children living in poverty averaged only 7.8 years of education, compared with 9.4 years for children living above the poverty line. Approximately 6 percent of children age 6 to 12 and 17 percent of adolescents age 12 to 17 either never attended school or abandoned their education. School nonattendance was highest in rural and jungle areas: In Lima, more than 90 percent of children were enrolled in primary school and more than 80 percent in secondary school, but, in some remote areas of the country, fewer than 60 percent of children attended school. Approximately 50 percent of the students who went to primary school completed high school.

Boys and girls had equal access to education. Pregnant school-age girls had the right to begin or continue attending school.

Working adolescents, particularly those who worked as childcare providers and female domestics, could attend classes at night schools operated by the Ministry of Education; however, attendance often obliged young people to go out at night in areas of Lima and other major cities that could be unsafe. During the year, the Ministry of Education initiated a tutorial program in the daytime schools, whereby teachers made themselves available to give extra help to working students and keep those students in regular school programs.

A 2003 National Statistical Institute survey estimated that nearly 60 percent of the country's 10 million children less than 18 years of age lived in poverty, approximately 20 percent of them in extreme poverty. Approximately 25 percent of children under age 5 were malnourished. The infant mortality rate was 33 per 1,000 in the year 2000 and 34 for 2002. The Government's Integral Health Security program offered poor mothers and infants as well as school-age children access to health care. The program includes children not attending school. Boys and girls had equal access to health services under this system.

Violence against children and the sexual abuse of children were serious problems. Based on information from its women's emergency centers, MIMDES reported that, during the year, there were 769 cases of violence or sexual abuse of children 5 years of age and under; 1,879 cases for children ages 6 to 11; and 2,721 cases for children ages 12–17.

According to NGOs, many abuse cases never were reported to the authorities, since many persons believed that such problems belonged within the family and should be resolved privately. The Women's Emergency Program worked to address the problems facing children who were victims of violence.

The Children's Bureau of MIMDES coordinated child- and adolescent-related government policies and programs. At the grassroots level, 1,312 Children's Rights and Welfare Protection Offices received and resolved complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operated approximately 46 percent of these offices, while schools, churches, and NGOs ran the remaining 54 percent. Law students staffed most of the units; only the offices in the wealthiest districts of the country had professionally trained lawyers, psychologists, and social workers. When these offices could not resolve cases, officials typically referred them to the local prosecutors' offices of the Public Ministry. Settlements adjudicated by these offices were binding legally and had the same force as judgments entered by a court of law.

Trafficking of children was a problem (*see* Section 5, Trafficking).

Child labor was a serious problem (*see* Section 6.d.).

Trafficking in Persons.—Trafficking statutes, which were updated during the year, prohibit trafficking in persons and provide punishments for those who move a person, either within the country or to an area outside the country, for the purposes of sexual exploitation (including prostitution, sexual slavery, or pornography) from 5 to 10 years' imprisonment. If the trafficking victim is under 18 years of age, the punishment is 10 to 15 years' imprisonment. Laws prohibiting kidnapping, sexual abuse of minors, and illegal employment were enforced and also could be used to punish traffickers in persons.

In May, Congress enacted legislation that significantly increased penalties for the sexual abuse of minors. In particular, the new statute levied punishments (4 to 8 years' imprisonment) against those who were pimps or clients for prostitutes under the age of 18. The law also punishes those who would profit from such activities and made Internet child pornography illegal. The effect of the new laws was felt almost immediately, as the Minister of Agriculture was forced to resign for having been partial owner of a hotel allegedly used by underage prostitutes.

The Ministry of the Interior and the PNP have taken the lead on attacking domestic trafficking. The Foreign Ministry and Immigration authorities are responsible for cases of international trafficking.

Although there were no authoritative estimates of its extent, there were isolated reports that persons were trafficked from the country, and trafficking within the country occurred. In March, the Government formed a permanent, ministerial-level Multi-Sectoral Committee (MSC) to work on the issue of trafficking in persons. The Committee is chaired by the Ministry of the Interior and includes representatives from 10 government ministries and agencies, 3 international organizations, and 5 national NGOs.

Under the MSC's leadership, the Government took a number of actions against traffickers. PNP officers repeatedly raided clandestine brothels, including in La Rinconada, a distant mining town in the Andes that is a notorious center of underage prostitution. The raids rescued a number of young women who were returned to their families. At year's end, one international trafficker had been arrested and awaited trial. Other domestic traffickers had been detained in raids and then released pending investigation. The Government had yet to develop a statistical system for following trafficking prosecutions nationwide.

In April, the media reported the case of Irene Oblitas Arone, who was trafficked in 1988 to Japan where members of the Japanese Mafia "purchased" her and forced her into prostitution. Oblitas subsequently returned to the country. NGO representatives complained that the Government did not provide adequate protection for persons like Oblitas, who continued to fear retaliation from traffickers after her identity became known. PNP officers detained Maria Yataco, a citizen of Japanese ancestry who had been Oblitas' first contact with the network that trafficked her to Japan. At year's end, investigations of Yataco and other traffickers associated with her were ongoing.

In August, the Foreign Ministry appropriated money for the repatriation of a second trafficking victim and her son, who were in Japan. At year's end, the victim remained in Japan completing arrangements for her return to the country, and the case against her traffickers remained under investigation by a Lima penal court.

Prosecution also continued at year's end in the case of Liliana Mendoza, a trafficking victim rescued from a brothel in Trujillo by PNP and NGO representatives in 2003.

Trafficking to Spain and, particularly, to Japan operated through organized criminal networks.

Internal trafficking was a far greater problem. NGOs and international organizations maintained that significant domestic trafficking occurred, particularly to bring underage women from the Amazon district or the Sierras into the cities or into mining areas to work as prostitutes or to work in homes as domestics. This trafficking took place through informal networks that could involve boyfriends and even the families of the young women victims.

The Government coordinated its anti-trafficking activities with NGOs. A Catholic order of nuns, the Adoring Sisters, operated 3 programs for underage female prostitutes, 1 a live-in center for approximately 75 girls (and 20 children of the victims) in Callao and 2 other walk-in centers in Lima. All facilities offered medical attention, job training, and self-esteem workshops in an attempt to remove underage girls from the streets. The Government's Institute for Adolescents and Children provided the Adoring Sisters with the live-in facility and paid for utilities and food.

During the year, the International Organization for Migration worked with Movimiento El Pozo, an NGO dedicated to helping prostitutes, to set up a hotline to warn and assist victims of international trafficking. The hotline was instrumental in bringing a victim's case to the attention of the Government. Hotline staff worked closely with the PNP to verify information they received from callers about suspicious job offers.

During the year, the Ministry of Foreign Affairs began an aggressive advertising campaign warning travelers about the dangers of trafficking. The Ministry of Commerce and Tourism also initiated an anti-trafficking campaign, warning hoteliers and others about the dangers of trafficking. In August and October, both ministries hosted major public conferences with various NGOs on trafficking in persons.

Persons With Disabilities.—The Constitution provides that persons with disabilities have "the right to have their dignity respected and to be provided by law with protection, care, rehabilitation, and security." Legislation that established the National Council for the Integration of People with Disabilities specifies rights, allowances, programs, and services. The law prohibits discrimination, mandates that public spaces be barrier-free and buildings be architecturally accessible, and provides for the appointment of a disability rights specialist in the Human Rights Ombudsman's office.

Despite an increased focus on persons with disabilities, the Government devoted few resources to efforts in this area. Many persons with disabilities remained economically and socially marginalized.

Although the law prohibits discrimination in the workplace, it does not specify sources of funding for programs to enable workers with disabilities to be productive. As a result, persons with disabilities and the private agencies serving them generally relied on public charity and on funding from international organizations.

Although construction regulations mandate barrier-free access for persons with disabilities to public service buildings, little effort was made to implement this provision. There were no accommodations, such as interpreters for the deaf in government service offices and Braille or recordings for the blind.

According to officials of the Institute for Social Security, less than 1 percent of persons with severe disabilities actually worked. Some private companies initiated programs to hire and train persons with disabilities, and a private foundation provided small loans to persons with disabilities to start businesses. Nevertheless, such persons faced discrimination by potential employers.

National/Racial/Ethnic Minorities.—The Constitution provides all citizens equality before the law and forbids discrimination, including by reason of race, origin, and language. The law criminalizes racial discrimination. The country's population included several racial minorities, the largest of which were persons of Asian and African descent. Afro-Peruvians, who tended to be concentrated along the coast, often faced discrimination and social prejudice and were among the poorest groups in the country. Afro-Peruvian civil rights groups contended that official surveys and censuses did not accurately reflect their numbers.

Afro-Peruvians generally did not hold leadership positions in government, business, or the military. Both the navy and the air force were believed widely to follow unstated policies that minimized the number of blacks in the officer corps. The law prohibits newspaper employment advertisements from specifying the race of the candidates sought, but employers often found discreet ways to relegate blacks to low-paying service jobs. NGOs alleged that frequently employers required job applicants to submit personal photos to ensure that they had the correct "presence" for desired jobs. The law prohibits various forms of discrimination by retail establishments against prospective customers. However, the law did not deter discriminatory practices. Afro-Peruvians often were portrayed unflatteringly by the entertainment industry as individuals of questionable character or as comedic stereotypes.

Indigenous People.—The Constitution prohibits discrimination based on race and provides for the right of all citizens to speak their native language; however, the large population of indigenous people faced pervasive societal discrimination and prejudice. Many factors impeded their ability to participate in, and facilitated their deliberate exclusion from, decision-making directly affecting their lands, culture, traditions, and the allocation of natural resources. Pervasive discrimination and social prejudice intensified perceptions of inferiority and second-class citizenship. Many indigenous people lacked basic identity documents that normally would identify them as full citizens and enable them to play an active part in society (*see* Section 5, Other Societal Abuses).

Other factors contributed to the marginalization of indigenous people in society. Poor transportation, language barriers, and inadequate communications infrastructure in the highlands and in the Amazon jungle region made political mobilization

and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government in Lima further limited the access and participation of indigenous people in society. UNICEF reported that indigenous people in rural areas did not have equal access to public services, particularly health and education: 90 percent lived in poverty; only 39 percent completed primary school; and there were higher child and maternal mortality in indigenous areas, where only 20 percent of births took place in public health centers.

The indigenous population of the Amazon region, estimated at between 200,000 and 300,000 persons, faced pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the indigenous communities had a spiritual relationship with their land, and the concept of land as a marketable commodity was alien to them. Nevertheless, according to the director of the Human Rights Ombudsman's Native Communities Program, the only right still statutorily set aside for this indigenous population with respect to its land is that of "unassignability," which prevents the title to such lands from being reassigned to some non-indigenous tenant by right of tenure. However, the marketing and sale of the lands were not prohibited.

Indigenous groups continued to resist encroachment on their native lands. Many indigenous people did not have title to the land on which they lived. For those who did, title to land does not include mineral or other subsoil rights, which belong to the State; this problem led to conflicts between mining interests and indigenous communities.

The National Commission on the Amazon Region and Indigenous and Afro-Peruvian Affairs (CONAPA) is assigned to the office of the president of the Council of Ministers. The Commission's members included officials from a variety of relevant ministries as well as representatives of the indigenous peasant population in the highland and coastal areas, the indigenous population of the Amazon jungle, and the Afro-Peruvian community. CONAPA worked with minority communities to choose local leaders to collaborate in efforts to extend social services to historically marginalized peoples. During the year, CONAPA also worked with the Government's National Citizen Registry, on an identity rights campaign for undocumented citizens (*see* Section 5, Other Societal Abuses).

The two principal NGOs that represented the interests of the indigenous population of the Amazon region were the Inter-Ethnic Association for the Development of the Peruvian Jungle (AIDESEP) and the Confederation of Amazonian Nationalities of Peru (CONAP). Both organizations were part of the Permanent Conference of Indigenous Peoples, an umbrella body that coordinated the activities of the country's indigenous population. CONAP advocated for indigenous communities' rights to share in the benefits of mining and other development operations. AIDESEP opposed territorial encroachments.

Sendero Luminoso continued to be a leading violator of the rights of indigenous people. The terrorist group coerced indigenous peasants into joining its ranks and demanded war taxes. Terrorist pressure on indigenous communities continued during the year, with Sendero representatives attempting to recruit followers among indigenous people living in the Pangoa and Tambo River valleys in Junin Province.

Other Societal Abuses and Discrimination.—The Constitution provides all persons with the right to a name, nationality, and legal recognition, and the exercise of civil, political, economic, and social rights; however, sources estimated that more than 1 million undocumented citizens, including at least 312,000 women, had no identity documents and thus were unable to avail of these rights. UNICEF calculated that approximately 15 percent of children were not registered, the majority of whom were illegitimate children, children of farm workers, or children of undocumented parents. The displacement of persons during the war against Sendero Luminoso and the constant movement of rural inhabitants to the cities worsened the problem of persons without documentation.

Undocumented citizens were socially and politically marginalized and had difficulties accessing government services. They also faced barriers to registering their children, becoming candidates for political office, or holding title to land and homes.

One of the most significant obstacles to obtaining a National Identity Document (DNI) was the requirement to present supporting documents, such as a birth certificate and a public utility receipt, to the DNI. Persons in rural areas faced special challenges in meeting these requirements. First, women were not always able to give birth at health establishments, which issue the certificate of live birth required for obtaining the birth certificate. Second, rural dwellers frequently did not have access to public utilities. Mothers who gave birth at home faced obstacles in retroactively obtaining a certificate of live birth. The Ministry of Health, in an effort to lower infant mortality, fined women who did not give birth in clinics or hospitals.

In many rural areas, these women could not pay the fines and, consequently, did not register their children.

During the year, various entities of the Government, including the Ombudsman's office, the National Registry of Identification and Civil Status, and the ministries of Education and Health, as well as MIMDES, began work on this problem in cooperation with Oxfam, a human rights NGO. The Government eased requirements for citizens to obtain identity papers, requiring only a birth certificate or an identity issued by the military, instead of both, as previously required.

Despite the absence of formal prohibitions, homosexuals faced extensive discrimination. On August 11, a Lima supermarket's manager asked two male members of the Homosexual Movement of Lima to leave after they exchanged kisses in the supermarket's public cafeteria. Other clients had complained about their behavior.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the law provide for the right of association; however, worker rights advocates claimed that the laws were overly restrictive. Approximately 5 percent of the formal sector workforce of 8.5 million belonged to organized labor unions.

Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers were not required to seek authorization prior to forming a trade union, nor could employers legally condition employment on union membership or non-membership.

A 2003 Law for Domestic Workers regulated the hours for and established fundamental rights for this overwhelmingly female section of the work force; however, the Ministry of Labor's limited ability to inspect the conditions of domestic workers minimized the law's effect.

b. The Right to Organize and Bargain Collectively.—The Constitution recognizes the right of public and private sector workers to organize and bargain collectively; however, it specifies that this right must be exercised in harmony with broader social objectives. A union had to represent at least 20 workers to become an official collective bargaining agent. Representatives could participate in collective bargaining negotiations and establish negotiating timetables.

Although a conciliation and arbitration system exists, union officials complained that their proportionate share of the costs of arbitration often exceeded their resources. In addition, union officials claimed that, as the law prohibits temporary workers from participating in the same union as permanent workers, companies have resorted to hiring workers "temporarily" to prevent increases in the number of union members. The law restricts the number of temporary workers hired to 20 percent of a company's work force; however, some labor advocates claimed that some companies did not comply with the law.

The law provides for the right to strike, and workers exercised this right in practice; however, the law restricts unions that represent workers in public services deemed essential by the Government from striking. According to the Ministry of Labor, there were 2 legal strikes and 95 illegal strikes during the year. It was difficult to get approval for a legal strike. Labor movement leaders believed that the Ministry of Labor, which grants permissions for legal strikes, was reluctant to do so for fear of hurting the economy. In practice, labor movement representatives considered this as limitation on the right to strike.

There are four export processing zones (EPZs). Special regulations for the EPZs provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred.

Narcotraffickers and Sendero Luminoso terrorists held indigenous families captive in remote areas, using their labor, including that of children, to grow food crops and coca (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Child and Adolescent Code governs child and adolescent labor practices and restricts child labor based upon the age of the child, hours worked, and occupation; however, child labor was a serious problem. The legal minimum age for employment is 14; however, children between the ages of 12 and 14 may work in certain jobs for up to 4 hours per day, and adolescents between ages 15 to 17 may work up to 6 hours per day if they obtain special permission from the Ministry of Labor and certify that they also were attending school.

In practice, the law's provisions were violated routinely in the informal sector. In certain sectors of the economy, higher minimums were in force: Age 15 in industrial,

commercial, or mining work and age 16 in the fishing industry. In 2003, the Ministry granted 1,020 permits to children between the ages of 12 and 17 to work in compliance with labor and education laws. The law prohibits children from engaging in certain types of employment, such as work underground, work that involves the lifting and carrying of heavy weights, work where the child or adolescent is responsible for the safety of others, work at night, or any work that jeopardizes the health of children and adolescents, puts at risk their physical, mental, and emotional development, or prevents their regular attendance at school. An estimated 1.9 million children labored primarily in the informal sector to help support their families. Of this total, NGOs estimated that approximately 600,000 children were less than 12 years of age.

Significant numbers of children from rural areas, most of them female, often were moved to cities where they lived and worked in families as domestics.

Employers frequently required longer hours from their live-in charges, compelling them to carry out comprehensive duties, including cooking and childcare, for wages as low as $20–30 (70–105 soles) per month. Child and adolescent laborers worked long hours in the agricultural sector. Other children reportedly were employed at times in dangerous occupations or in high-risk environments, such as informal gold mining, garbage collection, brick making, coca cultivation, or work in stone quarries and fireworks factories.

Although there were no reliable statistics on its extent, NGOs and other observers maintained that the country suffered a growing problem with adolescent prostitution (*see* Section 5), as demonstrated by police raids on clandestine brothels employing adolescent sex workers.

The Ministry of Labor is responsible for enforcing child labor laws, and its inspectors had legal authority to investigate reports of illegal child labor practices. Inspectors conducted routine visits without notice to areas where child labor problems were reported. Firms found guilty of violating child labor laws may be fined and have their operations suspended. Inspectors levied fines against 132 firms for violations of health and safety issues. Over the last 5 years, the Ministry of Labor carried out an average of nearly 4,000 inspections per year.

Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. The Ministry of Labor reported that there were 170 labor inspectors (of whom 120 worked in Lima) responsible for all labor inspections. Inspections focused on the formal sector. The PNP and local prosecutors exercised law enforcement authority.

Narcotraffickers routinely violated the rights of children in their efforts to produce illegal drugs. In August, the National Commission for Development and Life Without Drugs estimated that 5,000 children were employed in the illegal narcotics industry, an activity that exposed them to a variety of toxic chemicals that could have effects that range from death to damage to a person's nervous system, blisters, or burns.

e. Acceptable Conditions of Work.—The Constitution states that workers should receive a "just and sufficient" wage to be determined by the Government in consultation with labor and business representatives, as well as "adequate protection against arbitrary dismissal." In September 2003, the Government raised the statutory minimum wage from $124 (410 soles) a month to $153 (460 soles), which was not considered sufficient to provide a decent standard of living for a worker and family. The Government estimated the poverty line to be approximately $65 (214 soles) a month per person, a figure that varied by region. INEI's 2003 survey showed the poverty line at $75 (260 soles) a month per person for Lima, compared with $55 (180.5 soles) for the rural jungle. According to some estimates, as much as half the workforce earned the minimum wage or below, because such a great proportion worked in the largely unregulated informal sector. The Ministry of Labor was responsible for enforcing the minimum wage, which was enforced in the formal sector.

The Constitution provides for a 48-hour workweek, a weekly day of rest, and an annual vacation. A Supreme Decree states that all workers should work no more than 8 hours per day; however, labor advocates complained in recent years that workers were pressured to work longer hours to avoid dismissal. The law requires companies to pay overtime to employees who work more than 8 hours, to provide additional compensation for work at night, and to provide a 45-minute meal break to employees during their 8-hour shift. Labor, business, and the Government reported that the majority of companies in the formal sector complied with the law.

While occupational health and safety standards exist, the Government lacked the resources to monitor firms or enforce compliance. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases. When firms were

found to be in violation of the law, the Government punished them most often with fines. In cases of industrial accidents, the level of compensation awarded to the injured employee usually was determined by agreement between the employer and the individual involved. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist in law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment.

SAINT KITTS AND NEVIS

Saint Kitts and Nevis is a multiparty, parliamentary democracy and federation, governed by a prime minister, a cabinet, and a unicameral legislature, with a governor general as titular head of state. The Constitution provides the smaller island of Nevis considerable self-government under a premier, as well as the right to secede from the Federation in accordance with certain enumerated procedures. In the October 25 national elections, Prime Minister Denzil Douglas's St. Kitts and Nevis Labor Party (SKNLP) won 7 of 8 St. Kitts seats in the 11-seat legislature, and he remained Prime Minister. International observers considered the electoral process flawed. In elections on Nevis in 2001, Premier Vance Amory's Concerned Citizens Movement (CCM) won four of five seats in the Nevis Assembly. The judiciary is independent.

The security forces consist of a small police force, including a 30-person Special Services Unit that received some light infantry training, a coast guard, and a small defense force. Military forces patrolled jointly with the police. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The country had a mixed economy based on sugar cane, tourism, and light industry; the population was approximately 45,000. Most commercial enterprises were owned privately, but a state corporation owned the sugar industry and 85 percent of arable land. The gross domestic product, which rose 2.1 percent in 2003, was expected to rise by 4 percent during the year following growth in the tourism sector and contraction in the sugar sector. The unemployment rate was estimated at 5 percent. In January, the Government raised public sector salaries by 10 percent.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Poor prison conditions, opposition complaints about access to government-controlled media, and violence against women remained the principal problems.

RESPECT FOR HUMAN RIGHTS

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

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

During the year, one person died in prison, and one person died while in police custody; however, foul play was not suspected in either case.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prisons were overcrowded, and resources remained limited. The prison on Saint Kitts had a capacity for 155 prisoners but held 183 prisoners at year's end; some prisoners slept on mats on the floor. A low-security prison on Nevis held 35 inmates. Corporal punishment is legal; a court can order that an accused person receive lashes if found guilty. The prison provided voluntary work and education programs. The prison staff periodically received training in human rights.

Unlike in 2003, there were no reported deaths in prison during the year.

Female inmates were held separately from male prisoners, and juveniles were segregated from adult prisoners. Pretrial detainees were held separately from convicted prisoners.

The Government permitted prison visits by independent human rights observers, and such visits occurred during the year. In addition, the Ministry of National Security appointed "visiting justices," who volunteered to oversee the treatment of prisoners.

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

The police force consists of 370 officers (72 officers in Nevis), with 27 auxiliary members. Senior officers investigated complaints against members of the police force, and criminal offenses are referred to the Director of Public Prosecutions. The police force continued to conduct its own internal investigation when complaints were made against its members. There were 27 complaints filed during the year, resulting in 10 warnings to police, 3 disciplinary actions, and 1 dismissal.

Starting in July, officers received human rights training based on resources provided by the International Red Cross.

Police may arrest a person based on the suspicion of criminal activity; warrants are not required. The law requires that persons detained be charged within 48 hours or be released. If charged, the police must bring a detainee before a court within 72 hours. There is a functioning system of bail. Family members, attorneys, and clergy were permitted to visit detainees regularly.

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

The court system includes a high court and four magistrate's courts at the local level, with the right of appeal to the Eastern Caribbean Court of Appeal. Final appeal may be made to the Privy Council in the United Kingdom.

The Constitution provides that every person accused of a crime must receive a fair, speedy, and public trial, and these requirements generally were observed. Defendants have the right to be present and to consult with counsel in a timely manner. Free legal assistance was available for indigent defendants in capital cases only.

As of September, there were 75 persons in pretrial detention. The length of pretrial detention varied according to offense and charges; persons may be held for days, weeks, or months. In April, authorities tried, convicted, and sentenced to death by hanging Joseph Hazel. Hazel had been in pretrial detention since 2001 for the 2000 murder of Tony Fetherston. At year's end, his sentence was under appeal.

In December 2003, the legislature passed legislation to empower the courts to pass noncustodial sentencing such as discharges, suspended sentences, probation orders, and community service orders.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. The opposition People's Action Movement (PAM) party continued to allege that the ruling SKNLP blocked PAM's access to the Government-controlled media. The PAM acknowledged, however, that it had access to independent media outlets.

There was one daily independent newspaper and four independent weekly newspapers, as well as papers published by the major political parties. Several privately owned radio stations also operated.

In March, the Eastern Caribbean Supreme Court ordered the PAM newspaper to pay two government ministers a total of $35,000 (EC$95,000) for libel. Two other libel cases filed by government ministers against the PAM publication during the year resulted in judgments of $13,000 (EC$35,000) and $9,200 (EC$25,000).

In December, Clive Bacchus, a Guyanese national and the general manager of the WINN radio station, was informed that the renewal of his work permit was delayed pending verification that no qualified citizens were interested in his job. Since work permit renewals are granted routinely and recruitment of citizens was not a requirement, the incident was criticized as a government attempt to suppress the independent media.

The Government did not restrict access to the Internet.

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

On July 16, police arrested and briefly detained leaders of the PAM during a peaceful demonstration. PAM organizers claimed that police changed their demonstration route at the last moment. When demonstrators attempted to follow the originally approved route, their leaders were arrested.

In September 2003, PAM leaders received a court summons for having a public gathering without a permit. PAM officials alleged they had requested a permit and the Government knew about the gathering but deliberately refused to issue a permit. The cases were adjourned indefinitely and no trial date was set.

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

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution does not address forced exile, but the Government did not use it.

Although the country is a signatory of the 1951 U.N. Convention Relating to the Status of Refugees, the Government has not established a system for providing protection to refugees or asylum seekers. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage. All citizens 18 years of age and older may register and vote by secret ballot. A multiparty political system existed, in which political parties were free to conduct their activities; however, the PAM continued to allege that the ruling party restricted access to the media (*see* Section 2.a.).

In October general elections, Prime Minister Denzil Douglas's SKNLP was returned to office after winning 7 of 8 St. Kitts-assigned seats in the 11-seat Parliament. The PAM won one seat after nearly 5 years without representation. Nevis Premier Vance Armory's CCM won two of the three parliamentary seats assigned to Nevis. The Commonwealth Observer team categorized the electoral rules as "followed but flawed," and there were reports of vote fraud, intimidation, and foreign influence. During and after the election, government information services touted the SKNLP and criticized the opposition. The Government also deported and refused reentry to an important political consultant to the opposition party.

The Governor General appoints three senators, two on recommendation of the Prime Minister and one on the recommendation of the Leader of the Opposition. The island of Nevis has considerable self-government, with its own premier and legislature. In the 2001 Nevis elections, Premier Amory's CCM won four of the five seats in the Nevis Island Assembly.

During the year, in accordance with its rights under the Constitution, the Nevis Assembly again proposed secession and initiated formal constitutional procedures to hold a referendum on the issue. While opposing secession, the Government acknowledged the constitutional rights of Nevisians to determine their future independence. The referendum was delayed and had not been rescheduled by year's end.

The PAM continued to allege widespread employment discrimination by the SKNLP against public sector employment of persons perceived to be PAM supporters.

The PAM claimed that electoral reform is needed to correct inequities and to prevent irregularities in voting, asserting that in the previous election the Government encouraged voters to register in districts where they did not reside and unduly influenced voters by providing airfare and hotel accommodations to overseas citizens willing to return to vote. The PAM also charged that some people voted more than once by voting in different jurisdictions. Citing these irregularities, the PAM proposed that photographic voter identification cards be issued and the existing register of voters be nullified. The PAM also recommended changes to the electoral commission to correct what it perceived as a bias toward the party in power. The PAM criticized the Government's failure to appoint any PAM representatives to the Select Committee of the National Assembly on Constitutional Reform, which will take up matters of electoral reform. The PAM did not have any representatives in the prior assembly; their newly elected representative had not been placed on the Select Committee by year's end.

There were a number of allegations of corruption in the Government. The PAM party continued to allege corrupt electoral practices. In Nevis, the Reformation Party accused the ruling CCM of corruption in the sale of land at preferential

prices, among other corrupt practices, and called for an official inquiry. Businesses also complained of high-level corruption in large foreign investment projects.

No laws provide for public access to government information; however, in practice, the Government maintained a website with limited information concerning government actions.

There were 2 women in the 11-seat National Assembly and no women in the cabinet; 3 of 4 magistrates were women, the court registrar was a woman, and 6 of 11 permanent secretaries were women. In addition, in Nevis, one cabinet member and the president of the House of Assembly were women. The Government participated in an Organization of American States program to encourage the participation of women in leadership roles, with a focus on politics.

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

While there are no governmental restrictions, there were no local human rights groups. There were no requests for investigations or visits by international human rights groups during the year.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination on grounds of race, place of origin, birth out of wedlock, political opinion or affiliation, color, sex, or creed, and the Government generally respected these prohibitions in practice.

Women.—Violence against women was a problem. The Domestic Violence Act criminalizes domestic violence, including emotional abuse, and provides penalties of up to $5,000 (EC$13,500) and/or 6 months in prison for abusers. Although many women were reluctant to file complaints or pursue them in the courts, there were publicly reported cases of both domestic violence and rape and a few convictions. The Department of Gender Affairs, under the Ministry of Social Development, Community, and Gender Affairs, was active in the areas of domestic violence, spousal abuse, and abandonment. It offered counseling for victims of abuse and conducted training on domestic violence and gender violence for officials of the police and fire departments, nurses, school guidance counselors, and other government employees. In addition, the Permanent Secretary of the Department of Gender Affairs participated in a weekly radio program to discuss gender issues, including domestic violence. The Department reported 30 cases of domestic violence during the year. There was no separate domestic violence unit in the police force.

The law prohibits rape; however, spousal rape is not addressed in the legislation.

Prostitution is illegal and was not considered to be a problem.

The law does not specifically address sexual harassment, and it remained a problem.

The role of women in society is not restricted by law but was circumscribed by culture and tradition. There was no overt societal discrimination against women in employment, although analyses suggested that women did not occupy as many senior positions as men did. The Department of Gender Affairs conducted programs addressing poverty and health and promoting institutional mechanisms to advance the status of women and leadership positions for women. It operated three programs for rural women, providing them with market skills and training as entrepreneurs. The Department provided clients assistance with problems such as lack of housing, unemployment, childcare, technical training, and personal development. It also ran the Viola Project, a program to encourage young mothers to complete their education, which had 17 participants during the year. The Department produced three handbooks on sexual harassment, equal opportunity and employment, and equal pay for work of equal value. The Department continued its programs focusing on men as perpetrators of crimes of violence against women.

Children.—The Government was committed to children's rights and welfare and has incorporated most of the provisions of the U.N. Convention on the Rights of the Child into domestic legislation. The law mandates compulsory education up to the age of 16; it was free and universal. More than 98 percent of children completed school.

Free medical care was provided for children, and boys and girls had equal access.

Under the law, the age of consent is 16. During the year, authorities brought charges in 22 cases involving alleged sexual activity with minors (statutory rape) and 5 cases of incest (which includes sexual activity with any member of the household).

Trafficking in Persons.—No laws address trafficking in persons specifically; however, there were no reports that persons were trafficked to, from, or within the country.

The country continued an economic citizenship program, whereby foreign investors were permitted to purchase passports through loosely monitored procedures requiring an investment of at least $250,000 (EC$675,000) in real estate and an additional registration fee of $35,000 (EC$94,500) for the head of household (amounts varied for other family members). This process reportedly facilitated the illegal immigration of persons from China and other countries to North America, where, in some instances, criminal organizations that provided the funds to such persons forced them to work under conditions similar to bonded labor until the debt was repaid. The Government denied any knowledge of illegal immigration facilitated through this program and asserted that applicants were screened adequately.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law does not mandate access to buildings for persons with disabilities. During the year, the Government amended the National Development Plan, which emphasized opportunities in education and employment to include blind and visually impaired persons.

Section 6. Worker Rights

a. The Right of Association.—Workers exercised the legal right to form and join trade unions. Employers were not bound legally to recognize a union, but, in practice, employers did so if a majority of workers polled wished to organize. Approximately 10 percent of the workforce was unionized. The law permits the police, civil service, and other organizations to organize associations that serve as unions. The major labor union, the St. Kitts Trades and Labour Union (SKTLU), was associated closely with the SKNLP and was active in all sectors of the economy. The opposition PAM party alleged that the ruling party used its influence to try to stifle other unions that would threaten the SKTLU in the workplace.

The law prohibits anti-union discrimination but does not require employers found guilty of such action to rehire employees fired for union activities. However, the employer must pay lost wages and severance pay to employees who had worked at least 1 year, based upon their length of service.

b. The Right to Organize and Bargain Collectively.—Labor unions have the legal right to organize and to negotiate for better wages and benefits for union members, and the Government protected this right in practice. If a union obtains membership of over 50 percent of employees at a company, the union can apply to be recognized by the employer for collective bargaining. There are no export processing zones.

The right to strike, while not specified by law, is well established and respected in practice. Restrictions on strikes by workers who provide essential services, such as the police and civil servants, were enforced by established practice and custom, but not by law.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

Prisoners were required to work if their sentence was more than 30 days and stipulated "hard labor." They received a small stipend for this work paid upon discharge.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits slavery, servitude, and forced labor of children, and the Department of Labor effectively implemented this law in practice. There were no reported cases of child labor during the year. The minimum legal working age is 16 years. The Department of Labor relied heavily on school truancy officers and the Community Affairs Division to monitor compliance, which they generally did effectively.

Juveniles worked in agriculture, domestic service, and illicit activities. In rural areas where families are engaged in livestock farming and vegetable production, children often were required to assist as part of family efforts at subsistence. Girls often engaged in domestic service. Such labor included family-oriented work where children were made to look after younger siblings or ailing parents and grandparents at the expense of their schooling. Children often worked in other households as domestic servants or babysitters. Society does not consider domestic work exploitative child labor.

e. Acceptable Conditions of Work.—Minimum wage rates for various categories of workers, such as domestic servants, retail employees, casino workers, and skilled workers, were last updated in 1994, and manufacturing sector wages were revised in 1996. The average wage varied from $67 (EC$180) per week for full-time domestic workers to $166 (EC$443.50) per week for skilled workers. The wages provided a decent standard of living for a wage earner and family; many workers supple-

mented wages by keeping small animals such as goats and chickens, or other activities. The Labor Commission undertook regular wage inspections and special investigations when it received complaints; it required employers found in violation to pay back wages. Workers who were unemployed for more than 12 weeks received a lump sum payment from the Government based on previous earnings and length of service.

The law provides for a 40- to 44-hour workweek, but the common practice was 40 hours in 5 days. Although not required by law, workers receive at least one 24-hour rest period per week. The law provides that workers receive a minimum annual vacation of 14 working days and provides for premium pay for work above the standard workweek.

While there were no specific health and safety regulations, the Factories Law provides general health and safety guidance to Department of Labor inspectors. The Labor Commission settles disputes over safety conditions. Workers had the right to report unsafe work environments without jeopardy to continued employment; inspectors then investigate such claims, and workers may leave such locations without jeopardy to their continued employment.

SAINT LUCIA

Saint Lucia is a multiparty, parliamentary democracy governed by a prime minister and a cabinet, which represent the majority party in the lower house of the bicameral Parliament. Queen Elizabeth II appoints a governor general who has some residual powers under the Constitution. In generally free and fair elections in 2001, Prime Minister Kenny Anthony's Saint Lucia Labour Party (SLP) retained power, winning 14 seats in the 17-member House of Assembly. The judiciary is independent.

The Royal Saint Lucia Police numbers 704 officers and includes a 35-officer Special Services Unit, which had some paramilitary training, and a coast guard unit. The civilian authorities maintained effective control of the security forces. There were occasional allegations that members of the security forces committed human rights abuses.

The country has a market-based economy dominated by tourism, trade, communications, and transport. The population was approximately 160,000. Economic growth was 3.4 percent during the year, and inflation was estimated at approximately 2 percent. Unemployment at the end of 2003 was 19.7 percent.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. There were some allegations of physical abuse of suspects and prisoners by the police; long delays in trials and sentencing, domestic violence against women, and child abuse also were problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, security forces killed three suspects while attempting to apprehend them.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reports that government officials employed torture. Prisoners and suspects regularly complained of physical abuse by police and prison officers. Through October, the Police Complaints Commission investigated more than 100 complaints of police beatings. There were three disciplinary recommendations against police officers and three criminal convictions.

Prison conditions generally met international standards at the Bordelais prison, which had a capacity of 500 prisoners. In December, it held 485 prisoners, and 184 staff positions were filled. The prison had separate facilities for females, young offenders, and those awaiting trial. It also has a magistrate's courtroom. The prison administered rehabilitation, education, and recreations programs in farming, carpentry, literacy, and Bible study.

A boys' training school, which operated separately from the prison, held 14 juveniles between 12 and 18 years of age.

The Government permitted prison visits by human rights observers, although no such visits took place during the year.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest or imprisonment and the Government generally adhered to these provisions in practice.

The Royal Saint Lucia Police numbered 704 officers and included a Special Services Unit and a coast guard unit. The Police Commissioner continued implementation of the 2003 5-year community policing initiative to increase professionalism, prevent crime, and address customer service issues.

The Constitution requires a court hearing within 72 hours of detention. There was no constitutional requirement for a speedy trial, but every Wednesday, the Government used the magistrate's court located in the prison to reduce processing time for court hearings after detention. Those charged with serious crimes spent an estimated 6 months to a year in pretrial detention; however, those charged with petty offenses often received speedy trials, particularly if victims or witnesses were likely to leave the island. Detainees are allowed prompt access to counsel and family. There is a functioning bail system.

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

The two-level court system includes the Courts of Summary Jurisdiction (Magistrate's Courts) and the High Court, both of which have civil and criminal authority. The lower courts accept civil claims up to approximately $1,850 (EC$5,000) and criminal cases generally classified as "petty." The High Court has unlimited authority in both civil and criminal cases. All cases may be appealed to the Eastern Caribbean Court of Appeal. Cases also may be appealed to the Privy Council in London as the final court of appeal. A family court handles child custody, maintenance, support, domestic violence, juvenile affairs, and related matters.

The Constitution requires public trials before an independent and impartial court and, in cases involving capital punishment, provision of legal counsel for those who cannot afford a defense attorney. In criminal cases not involving capital punishment, defendants must obtain their own legal counsel. Defendants are entitled to select their own legal counsel, are presumed innocent until proven guilty in court, and have the right of appeal. Authorities observed both constitutional and statutory requirements for fair public trials.

The court system continued to face a serious backlog of cases. The Government hired three new magistrates during the year for a total of nine. The average time for a trial was 3 to 6 months in the magistrate's courts and 6 to 12 months for nonpetty criminal cases.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The independent media were active and expressed a wide variety of views without restriction. There were five major privately owned newspapers, two privately owned radio stations, one partially government-funded radio station, one government-operated television station, and two private television stations.

Local media outlets and the opposition party continued to voice concerns with the "spreading false news" clause, enacted in 2003 as part of the new Criminal Code.

The Government did not restrict access to the Internet.

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

The law requires permits for public meetings and demonstrations if they are to be held in public places, such as on streets or sidewalks or in parks. The police routinely granted such permits; the rare refusal generally stemmed from the failure of organizers to request the permit in a timely manner, normally 72 hours before the event.

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

Two Rastafarians, convicted of murder and arson and sentenced to hang in 2003 for attacking parishioners at a Catholic Mass in 2000, remained on death row.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and it was not used.

No formal government policy toward refugee or asylum requests existed. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum. During the year, the Cabinet of Ministers gave temporary residence status with permission to work to nine Haitians and referred them to the U.N. High Commissioner for Refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Under the Constitution, general elections must be held at least every 5 years by secret ballot, but may be held earlier at the discretion of the Government in power. The Governor General appoints the 11-member Senate, which includes 2 independents. In 2001, in elections that generally were considered free and fair, Prime Minister Anthony's SLP defeated the United Workers Party, led by Morella Joseph. The SLP won 14 of 17 seats and 55 percent of the popular vote.

The law provides for public access to information, and parliamentary debates are open to the public. The Government Information Service disseminates public information on a daily basis, operates an extensive website, and publishes a number of official periodicals.

There were no legal impediments to participation by women and minorities in government and politics, and 8 women competed in the 2001 elections in a field of 45 candidates for 17 positions. Voters elected two women to the House of Assembly, and there were four appointed female senators. One of the 14 members of the cabinet was a woman, as was the Governor General.

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

A few domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although the Government officially cooperated with such investigations, observers noted occasional reluctance by lower officials to cooperate.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

Neither the Constitution nor the law address discrimination specifically; however, government policy was nondiscriminatory in the areas of housing, jobs, education, and opportunity for advancement.

Women.—Violence against women was recognized as a serious problem. The Government prosecuted crimes of violence against women only when the victim pressed charges. Most charges involving domestic violence must be brought under the ordinary Civil Code, but rape and other crimes were subject to the Criminal Code. The family court heard cases of domestic violence and crimes against women and children. The police force conducted some training for police officers responsible for investigating rape and other crimes against women. A special police unit handled domestic violence, and its officers, which include women, worked closely with the Ministry of Home Affairs and Gender Relations. There were 31 reported cases of domestic violence in 2003. Most of the cases were referred to a counselor, and the police facilitated the issuance of court protection orders in some. Police and courts enforced laws to protect women against abuse, although police were hesitant to intervene in domestic disputes, and many victims were reluctant to report cases of domestic violence and rape or to press charges.

The Domestic Violence Act allows a judge to issue a protection order prohibiting an abuser from entering or remaining in the place where the victim is living. It also allows the judge to order that an abuser's name be removed from housing leases or rental agreements, revoking the right of the abuser to live in the same residence as the victim.

The Saint Lucia Crisis Center for Women, a nongovernmental organization located in Castries, monitored cases of physical and emotional abuse and helped clients to deal with such problems as incest, nonpayment of child support, alcohol and drug abuse, homelessness, custody, and visitation rights. The Ministry of Health, Human Services and Family Affairs reported 34 cases of domestic violence, including physical, emotional, and sexual abuse. During 2003, the Women's Support Cen-

ter, a government shelter for abused persons, received 105 crisis calls and offered residential services to 24 clients and 27 dependent children. The center also engaged in an active community outreach program that included visits to schools, health centers, and community centers.

Prostitution is illegal; however, it was a growing problem. The police did not take serious action against the clubs despite some reports of child abuse and trafficking.

The law does not prohibit sexual harassment; however, it remained a problem.

Women's affairs were under the jurisdiction of the Ministry of Home Affairs and Gender Relations. The Ministry was responsible for protecting women's rights in domestic violence cases and preventing discrimination against women, including ensuring equal treatment in employment.

Children.—The Government gave high priority to improving educational opportunities and health care for children. Education was compulsory from age 5 through 15; registration fees were required. Approximately one-third of primary school children continued on to secondary schools, and the dropout rate from primary to secondary school was higher for boys than for girls.

Government clinics provided prenatal care, immunization, child health care, and health education services. Boys and girls had equal access to medical care.

During the year, the Ministry of Health, Human Services, and Family Affairs reported 41 cases of child sexual abuse, 34 cases of physical abuse, 13 cases of psychological abuse, and 59 cases of neglect and abandonment. In 2003, the Saint Lucia Save the Children Fund (LUSAVE) reported receiving an average of three calls per day from abused children and documented numerous incidences of children as young as 10 years of age giving birth as a result of sexual abuse. LUSAVE also claimed to have evidence of child pornography, including the rape of minors recorded on video for sale. As there was no welfare system in place, parents of sexually abused children sometimes declined to press sexual assault charges against the abuser in exchange for financial contributions toward the welfare of children born of such abuse.

Trafficking in Persons.—No laws specifically address trafficking in persons; however, there were reports that internal trafficking, particularly of minors, began to be a problem. There was a credible report of trafficking for sexual exploitation of a woman from the Dominican Republic whose passport was seized by a nightclub owner and who claimed she was coerced into prostitution. Police intervened and returned the woman's passport. The country had a reputation as a regional hub for nightclubs and weekend trysts. While recognizing the increase in prostitution and nightclub activity, the Government did not acknowledge that trafficking was a problem and had no programs to protect victims or prevent trafficking.

Persons With Disabilities.—No specific legislation protects the rights of persons with disabilities or mandates provision of access to buildings or government services for them. The Government is obliged to provide disabled access to all public buildings, and several government buildings added ramps to provide access. There was no rehabilitation facility for persons with physical disabilities, although the Health Ministry operated a community-based rehabilitation program in residents' homes. There were schools for the deaf and for the blind until the secondary level. There also was a school for persons with mental disabilities.

Other Societal Abuses and Discrimination.—There was widespread stigma and discrimination against persons infected with HIV/AIDS, although the Government initiated several programs to address this issue. In May, the Government committed $2.6 million (EC$7 million) for a 5-year program to combat AIDS. The U.N. Population Fund also provided support for youth-oriented AIDS prevention programs.

Section 6. Worker Rights

a. The Right of Association.—The Constitution specifies the right of workers to form or belong to trade unions under the broader rubric of the right of association. Most public sector employees and about 36 percent of the total work force was unionized.

b. The Right to Organize and Bargain Collectively.—Unions have the legal right to engage in collective bargaining, and they exercised this right in practice. The Registration of Trade Unions and Employer Organizations Act regulates internal union governance. It also provides that an employer must recognize a union if the union obtains the support of 50 percent plus one of the employees at a particular business.

Strikes in both the public and private sectors were legal, but there were many avenues such as collective bargaining agreements and government procedures that often precluded a strike. The law prohibits members of the police and fire depart-

ments from striking on the grounds that these professions were "essential services." Workers in other "essential services"—water and sewer authority workers, electric utility workers, nurses, and doctors—must give 30 days' notice before striking.

Labor law is applicable in the export processing zones, and there were no administrative or legal impediments to union organizing or collective bargaining in those zones; however, there were no unions registered in these zones.

c. Prohibition of Forced or Compulsory Labor.—The Government prohibits forced or compulsory labor, and there were no reports that such practices occurred. While there is no specific prohibition of forced or compulsory labor by children, there were no reports of such practices.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law provides for a minimum legal working age of 16 years. The minimum legal working age for industrial work is 18 years. Child labor existed to some degree in the rural areas, primarily where larger, stronger, school-age children helped harvest bananas from family trees. Children also typically worked in urban food stalls or sold confectionery on sidewalks. However, these activities occurred on nonschool days and during festivals. The Department of Labor of the Ministry of Labor Relations, Public Service, and Cooperatives was responsible for enforcing statutes regulating child labor. Employer penalties for violating the child labor laws were $3.55 (EC$9.60) for a first offense and $8.88 (EC$24) for a second offense. There were no formal reports of violations of child labor laws.

e. Acceptable Conditions of Work.—Minimum wage regulations in effect since 1985 set wages for a limited number of occupations. The minimum monthly wage for office clerks was $111 (EC$300), for shop assistants $74 (EC$200), and for messengers $59 (EC$160). The minimum wage was not sufficient to provide a decent standard of living for a worker and family, but most categories of workers received much higher wages based on prevailing market conditions. The 1999 Minimum Wage Act established a commission responsible for setting a minimum wage level; it met during 2003, but it had not finished its work by year's end.

There is no legislated workweek, although the common practice was to work 40 hours in 5 days. Special legislation covers work hours for shop assistants, agricultural workers, domestics, and persons in industrial establishments.

Occupational health and safety regulations were relatively well developed; however, there was only one qualified inspector for the entire country. The Ministry enforced the act through threat of closure of the business if it discovered violations and the violator did not correct them. However, actual closures rarely occurred because of lack of staff and resources. Workers had the legal right to leave a dangerous workplace situation without jeopardy to continued employment.

SAINT VINCENT AND THE GRENADINES

St. Vincent and the Grenadines is a multiparty, parliamentary democracy governed by a prime minister, a cabinet, and a unicameral legislative assembly, with a governor general as titular head of state. In 2001 elections that were generally free and fair, the Unity Labor Party (ULP) won 12 of 15 parliamentary seats, and ULP leader Ralph Gonsalves became the new Prime Minister. The judiciary is independent.

The Royal St. Vincent Police, the only security force in the country, includes a coast guard and a small Special Services Unit with some paramilitary training. Civilian authorities maintained effective control of the security force; however, some members of the security force committed human rights abuses.

The market-based economy was small, weak, and heavily in debt. The country's population was approximately 117,000. The economy primarily was based on agriculture (particularly bananas), construction, and tourism. The country continued to suffer from a high rate of unemployment and low per capita gross domestic product (GDP). Unemployment was estimated at 25 percent in 2003. Real GDP rose to 3.6 percent for 2003 following improvements in the construction, manufacturing, communications, and trade sectors. Consumer prices increased approximately 1.7 percent during the year.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Principal human rights problems included instances of excessive use of force by police, the Government's failure to punish adequately those responsible for such abuses, poor prison conditions, and an overbur-

dened court system. Violence against women and abuse of children also were problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government or its agents; however, in September, police beat Leroy Sayers, who was behaving erratically and reportedly may have been having a seizure. Sayers later died in police custody. His family claimed to have been kept from the post mortem examination, and there was no opportunity for an independent examination to determine the cause of death.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, regional human rights groups noted that a high percentage of convictions were based on confessions. One human rights group believed that most confessions resulted from unwarranted police practices, including the use of physical force during detention, illegal search and seizure, and failure to inform properly those arrested of their rights.

In April, police reportedly captured and beat escaped prisoner Dexter Brewster, who sustained injuries that left him paralyzed from the waist down. The St. Vincent and the Grenadines Human Rights Association (SVGHRA) protested the incident to the Commissioner of Police but did not receive a response. At year's end, Brewster remained in a prison that was not equipped to hold paralyzed prisoners.

Prison conditions were poor. Prison buildings were antiquated and overcrowded, with Her Majesty's Prison in Kingstown holding 354 inmates in a building designed for 75. These conditions resulted in serious health and safety problems.

In September 2003, the Prison Superintendent acknowledged that, despite reforms initiated in 2003, prisons were characterized by endemic violence, understaffing, underpaid guards, uncontrolled weapons and drugs, an increase in HIV/AIDS, and unhygienic conditions.

A prison guard training program, initiated in 2003, trained nearly all 117 guards in methods used in the British prison system. A rehabilitation program allowed inmates to receive contracts and jobs with local entrepreneurs. A school program offered courses in carpentry, tailoring, baking, and mechanical engineering.

The SVGHRA reported that prison guards routinely beat prisoners as means of extracting information regarding escapes, crime, and violence committed in the prison. During the year, guards reportedly beat one prisoner, Michael Wilson, because he had engaged in homosexual activity. Wilson had not been convicted of a crime but was in prison awaiting trial after being denied bail. Wilson subsequently was given bail and decided not to pursue a complaint against prison authorities.

There were 13 female inmates held in a separate section in the Fort Charlotte prison. Pretrial detainees and young offenders (16 to 21 years of age) were held with convicted prisoners. Conditions were inadequate for juvenile offenders.

The Government permitted prison visits by independent human rights observers, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, complaints continued regarding police practices in bringing cases to court.

The Royal St. Vincent Police has 700 police officers, including a small Special Services Unit with some paramilitary training. The force has an additional 59 persons in the fire service and 74 in the coast guard. The Government operated an oversight committee to monitor police activity and hear public complaints about police misconduct. The committee reported to the Minister of National Security and to the Minister of Legal Affairs and actively participated in investigations during the year.

Arrest warrants are required in most instances. Detainees may seek judicial determinations after 48 hours if not already provided. There is a functioning and generally effective system of bail. A local human rights group reported that most detainees were given prompt access to counsel and family members, although in some instances, such access was delayed.

Although there were only three official magistrates, the registrar of the High Court and the presiding judge of the Family Court effectively served as magistrates when called upon to do so. Some defense attorneys claimed that there were 6- to 12-month delays in preliminary inquiries for serious crimes.

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

The judiciary consists of lower courts and a High Court, with appeal to the Eastern Caribbean Court of Appeal and final appeal to the Privy Council in the United Kingdom. There were three official magistrates, including the Chief Magistrate, a senior magistrate, and one other magistrate. In addition, the registrar of the High Court had the authority to sit as a magistrate if called upon. The Chief Magistrate was also president of the Family Court, which handled criminal cases for minors up to age 16.

The Constitution provides for public trials. The court appointed attorneys for indigent defendants only when the defendant was charged with a capital offense. Defendants were presumed innocent until proven guilty and could appeal verdicts and penalties. The backlog of pending cases was reduced during the year, even though the magistrate's court in Kingstown lacked a full complement of magistrates. A local human rights group reported that magistrates were overworked and underpaid.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

The independent media were active and expressed a wide variety of views without restriction. There were two major newspapers and numerous smaller, partisan publications; all were privately owned. The sole television station and six of seven radio stations were privately owned.

Slander charges filed in 2002 by Prime Minister Gonsalves against a popular radio talk show host and the company that owned the radio station remained before the court at year's end.

The Government did not restrict access to the Internet.

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

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

Members of the Rastafarian community continued to complain that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination by the authorities on the basis of religious belief or simply enforcement of laws against marijuana, which was used as part of Rastafarian religious practice.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and it was not used.

Although the country is a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not established a system for providing protection to refugees or asylum seekers. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution but did not grant refugee status or asylum. The country does not receive refugees; however, during the year, the Government permitted victims of Hurricane Ivan from Grenada to stay in the country on a temporary basis. A Red Cross representative served as the honorary liaison with the office of the U.N. High Commissioner for Refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for general elections at least every 5 years.

In the 2001 elections, which observers declared to be generally free and fair, the opposition ULP won 12 out of the Parliament's 15 elected seats, and Dr. Ralph Gonsalves became Prime Minister. Following elections, the Governor General appoints six Senators, four on the nomination of the Prime Minister and two on the nomination of the Opposition Leader. Senators have the same privileges as the

elected members except that they are not permitted to vote on a motion of no confidence brought against the Government.

The country had a national anti-corruption plan; however corruption remained a moderate problem. The law provides for public access to information and the Government provided such access in practice.

There were 2 women in the 15-seat Parliament and 3 women in the cabinet—the Minister of Tourism, the Minister of Agriculture, and the Attorney General.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were responsive to their views; however, the SVGHRA complained that not all of its complaints or inquiries to the Government received a response. The SVGHRA continued to monitor government and police activities, particularly with respect to treatment of prisoners, publicizing any cases of abuse. The SVGHRA participated in training seminars.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equal treatment under the law regardless of race or sex, and the Government generally enforced this provision in practice.

Women.—Violence against women remained a serious problem. During the year, the police received 66 reports of rape. Of these, 22 cases were in court, 42 were under investigation, and 2 were dropped for lack of evidence. In 2003, women made over 1,000 reports of physical, sexual, emotional, and other domestic violence. The Domestic Violence/Matrimonial Proceedings Act prohibits domestic violence. The SVGHRA reported that, in many instances, domestic violence went unpunished due to a culture in which victims learn not to seek assistance from the police or the prosecution of offenders.

The SVGHRA conducted numerous seminars and workshops throughout the country to familiarize women with their rights. Development banks provided funding through the Caribbean Association for Family Research and Action for a program of Domestic Violence Prevention, Training, and Intervention. Police received training on domestic abuse, emphasizing the need to file reports and, if there was sufficient evidence, to initiate court proceedings. To counter the social pressure on victims to drop charges, some courts imposed fines against persons who brought charges but did not testify.

Rape, including spousal rape, is illegal, and the Government effectively enforced the law. Depending on the magnitude of the offense and the age of the victim, the sentence for rape generally was 10 years to life in prison.

Prostitution is legal; however, it remained a problem among young women and teenagers.

The law prohibits sexual harassment. A local human rights group believed that the law was ineffective and required amendments to address this problem.

Women enjoyed the same legal rights as men. Women received an equitable share of property following separation or divorce. The Office of Gender Affairs, under the Ministry of Education, Women's Affairs, and Culture, assisted the National Council of Women with seminars, training programs, and public relations. The minimum wage law specifies that women should receive equal pay for equal work.

Marion House, an independent social services agency, provided counseling and therapy services, as well as parenting and support programs for young adults aged 15 to 25.

Children.—The Government was committed to children's rights and welfare. Primary education was compulsory, free, and universal, and the Ministry of Education estimated that 99 percent of primary school age children attended school. Secondary school was not compulsory, but the Government investigated cases in which children were withdrawn from school before the age of 16. As a supplement to secondary school, the Government sponsored the Youth Empowerment Program, which was an apprenticeship program for young adults interested in learning a trade. Approximately 500 youths were enrolled in this program, earning a stipend of approximately $148 (EC$400) a month, to which private sector employers contributed additional amounts in some instances. The Ministry of Education estimated that approximately 83 percent of secondary school-age children attended school during the year.

Despite government efforts to support health and welfare standards, the infant mortality rate still was very high at 22 deaths per 1,000 live births, in part due to the large number of children born to teenage mothers. Boys and girls enjoyed equal access to health care.

The law provides a limited legal framework for the protection of children, and the Family Services Department, Ministry of Social Development, monitored and protected the welfare of children. The Department had yet to implement its National Child Abuse Register and was unable to provide statistics for the year; however, the Department reported 51 cases of sexual abuse, 55 cases of physical abuse, 112 cases of neglect, and 22 cases of abandonment during 2002. The Family Services Department referred all reports of child abuse to the police for action.

Trafficking in Persons.—The law does not address trafficking in persons specifically; however, there were no reports that persons were trafficked to, from, or within the country.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law does not mandate access to buildings for persons with disabilities, and the circumstances for such persons generally were difficult. Most persons with severe disabilities rarely left their homes because of the poor road system and lack of affordable wheelchairs. The Government partially supported a school for persons with disabilities, which had two branches. A separate, small rehabilitation center treated approximately five persons daily.

Section 6. Worker Rights

a. The Right of Association.—Workers exercised the legal right to form and join unions; however, no law requires employers to recognize unions. Less than 10 percent of the work force was unionized.

The Protection of Employment Act provides for compensation and worker rights, but these were restricted to protection from summary dismissal without compensation and reinstatement or severance pay if unfairly dismissed. This act protects workers from dismissal for engaging in union activities and provides them with reinstatement rights if illegally dismissed.

b. The Right to Organize and Bargain Collectively.—The law permits unions to organize and bargain collectively, and the Government protected these rights in practice; however, no law requires employers to recognize a particular union as an exclusive bargaining agent. The Trade Dispute, Arbitration, and Inquiry Act provides that if both parties to a dispute consent to arbitration, the Minister of Labor can appoint an arbitration committee from the private sector to hear the matter. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right in practice; however, the Essential Services Act prohibits persons providing such services (defined as electricity, water, hospital, and police) from striking.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum working age at 16, and workers may receive a national insurance card at that age. The Ministry of Labor monitored and enforced this provision, and employers generally respected it in practice. The Labor Inspectorate at the Department of Labor received, investigated, and addressed child labor complaints. Labor officers in this unit conducted general inspections of workplaces annually. The age of leaving school at the primary level was 15 years; when these pupils left school, they usually were absorbed into the labor market as apprentices. The only recognized child labor was children working on family-owned banana plantations, particularly during harvest time, or in family-owned cottage industries. The Government operated a Youth Employment Service, which provided training and increased job opportunities by employing young people in government ministries for up to 1 year.

e. Acceptable Conditions of Work.—The Wages Council meets every 2 years to review minimum wages. Minimum wages, last set in 2003, varied by sector and type of work and are specified for several skilled categories, including attendants, packers, cleaners, porters, watchmen, and clerks. In agriculture, the minimum wage for workers provided shelter was $9.26 (EC$25) per day; industrial workers earned $11.11 (EC$30) per day. In many sectors, the minimum wage did not provide a decent standard of living for a worker and family, but most workers earned more than the minimum.

The law prescribes hours of work according to category, such as industrial employees (40 hours per week), professionals (44 hours per week), and agricultural workers (30 to 40 hours per week). The law provides a minimum annual vacation of 5 to 14 days for agricultural workers, depending on the number of days employed during the year. Industrial workers receive 8 to 21 days of vacation, depending on the num-

ber of days employed during the year and the worker's length of service with the employer. The law provides that workers receive time-and-a-half for hours worked over the standard workweek.

Legislation concerning occupational safety and health was outdated, and enforcement of regulations was ineffective. Trade unions addressed some violations regarding safety gear, long overtime hours, and the safety of machinery. There were some reports of significant visual impairment by visual display unit workers, and some reports of hearing impairment by power station and stone crushing employees. The law does not address specifically whether workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, but it stipulates conditions under which plants must be maintained. Failure to comply with these regulations would constitute a breach, which might cover a worker who refused to work under these conditions.

SURINAME

Suriname is a constitutional democracy, with a president elected by the unicameral legislature. After generally free and fair elections in May 2000, the New Front, a coalition of 4 parties, won 33 seats in the 51-member National Assembly and, in August 2000, elected Ronald Venetiaan of the National Party of Suriname (NPS), 1 of the coalition members, as President. Venetiaan previously served as President from 1991 to 1996. The judiciary, although extremely inefficient, was independent.

The armed forces are responsible for national security and border control, with the military police having direct responsibility for immigration control at the country's ports-of-entry. All elements of the military were under the control of the Minister of Defense. Civilian police bore primary responsibility for the maintenance of law and order and reported to the Ministry of Justice and Police. The Government continued to implement Operation Safe Suriname, a predominantly police-led operation to maintain security in and around the capital, as well as in remote communities near large commercial enterprises. The influence of former dictator Desi Bouterse within the military has declined steadily since 2000, although he still retained influence with some military officers. The civilian authorities maintained effective control of the security forces. A few members of the security forces committed isolated human rights abuses.

The economy is market-based, with strong government participation; the Government and state-owned companies employed over half the working population. The population was approximately 480,000. The economy depended heavily on the export of bauxite derivatives. Unregulated gold mining was an increasingly important economic activity that highlighted a lack of land rights for indigenous and tribal people and lack of government control of the interior. Estimated gross domestic product grew by approximately 4.1 percent. By year's end, the inflation rate was estimated at 10 percent, compared with 25 percent in 2003. Civil servants received two 5 percent salary increases during the year, while salary increases by state-owned and private companies varied from 5 to 10 percent. An estimated 50 to 60 percent of families lived below the poverty line.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police mistreated detainees, specifically at the time of arrest; guards abused prisoners; and local detention facilities remained overcrowded. The judiciary suffered from ineffectiveness and a huge case backlog due to the shortage of judges, which resulted in lengthy pretrial detention. Self-censorship by some media continued. Societal discrimination against women, minorities, and indigenous people persisted. Violence against women continued, and while the Government took steps to combat trafficking in persons, trafficking in women and underage girls and boys remained a problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. In May, two police officers shot and killed a defenseless suspect. The two officers were arrested, and an investigation remained pending at year's end. In two other cases of fatal shootings by police officers, investigations vindicated the officers.

The Government still did not address past abuses, which continued to be a focus of concern. The Government did not investigate the 1986 massacre of more than 50

civilians at the village of Moiwana. In 1997, the nongovernmental organization (NGO) Moiwana '86, established as a watchdog on this and other human rights issues, took the case to the Inter-American Commission on Human Rights (IACHR) and subsequently forwarded the case to the Inter-American Court on Human Rights after receiving no response from the Government. In September the Court heard the matter, and a decision was pending at year's end.

The investigation into the 1982 killings by the Bouterse regime of 15 prominent political, labor, business, and media leaders, ordered in 2000 by the Court of Justice, continued throughout the year. A list of more than 30 suspects, drawn up at the start of the investigation, with Bouterse as the prime suspect, was reduced to less than 10. At mid-year, the Prosecutor's Office declared the investigation completed, and local officials stated that the case would likely be tried in 2005.

b. Disappearance.—There were no reports of politically motivated disappearances; however, the Government had yet to investigate allegations of certain disappearances that occurred between 1983 and 1991.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits inhuman treatment or punishment; however, human rights groups continued to express concern about official mistreatment and documented cases of police mistreatment of detainees, particularly during arrests, and abuse of prisoners by prison officials.

Human rights activists accused the police of using excessive force during arrests. There were reports that police shot and wounded five suspects, including armed dangerous criminals, during arrests. In January, police officers severely beat a suspect, who was taken to a doctor for medical treatment. As a result of investigation by the Police Personnel Investigation Department (OPZ), the officers received a disciplinary punishment.

Through November, citizens filed 166 complaints with the OPZ, the majority of which were for physical mistreatment (*see* Section 1.d.). The authorities arrested 18 officers and disciplined 105 for various offenses, including brutality; 19 officers were incarcerated, 32 were suspended, and 5 were fired. According to human rights groups, inadequate training of police officers serving as the jailers at local detention facilities contributed to the abuses.

Prison conditions were poor and, in many cases, did not meet international standards. There were three prisons and several detention facilities at police stations where detainees were held before appearing before a judge to be charged or to stand trial. Human rights monitors expressed concern about conditions in the prisons, particularly in local detention facilities, which remained overcrowded. At police stations, prison officials allowed detainees no exercise and rarely permitted them to leave their cells. Detainees and human rights groups also complained about inadequate meals. At mid-year, security concerns prompted prison officials to limit access by families to bring food, raising protests from the incarcerated. There generally was no consideration given to persons requiring a specific diet for religious reasons. Human rights monitors reported that guards mistreated detainees and that medical care and living conditions were inadequate.

Violence among prisoners was common, and the authorities generally did not punish prisoners for violence against other prisoners. Most facilities, especially older jails, remained unsanitary and seriously overcrowded, with as many as four times the number of detainees for which they were designed. In May, a government commission, installed in 2003 to investigate treatment of detainees in prison facilities, presented its report to the Justice Minister. The commission recommended renovating all prison facilities and—to lessen overcrowding—an adjustment of the police detainment policy, such as releasing those charged with lesser crimes after their statements were taken.

Male and female prisoners were held separately. Conditions in women's jail and prison facilities were generally better than those in the men's facilities. There was no separate facility for girls under the age of 18; girls were held in the women's detention center and in the women's section of one of the prison complexes.

Juvenile facilities for both boys and girls between the ages of 10 and 18 within the adult prison were considered adequate and included educational and recreational facilities. There was a separate wing of an adult prison for boys under age 18 who committed serious crimes, where recreational facilities were more limited. A steadily growing number of persons who already have been convicted but not yet placed in prisons, due to a lack of space in prison facilities, continued to be held in police custody or pretrial detention cells.

Moiwana '86 monitored the conditions of prisoners. Representatives of the group reported that, in general, they had access to prisoners and received cooperation from prison officials on routine matters.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, prisoners who appealed their cases often served their full sentences due to the lengthy appeals process resulting from the lack of judges. The Attorney General's Office reiterated its concern that prisoners who served their original sentence were not released on a timely basis. Defense lawyers often utilized an article of the Code of Criminal Proceedings that allows a judge to release a suspect if the case against the accused appears weak.

The police force (Korps Politie Suriname) has approximately 1,200 police officers and 350 civilians and is divided into 4 departments: Judicial (intelligence, forensics, fraud, narcotics, investigative), general, Paramaribo, and interior (outside of Paramaribo). Police effectiveness was hampered by a lack of equipment and training, low salaries, and poor coordination with other law enforcement agencies. Police conducted limited joint operations with the military in areas of the country that lacked a police presence. Corruption remained a problem, and senior officers met monthly with the Attorney General's Office to review corruption and other cases against the police. The OPZ investigated more than 100 complaints against officers and made recommendations on whether an officer should be punished internally or if criminal charges should be brought.

Individuals were apprehended with warrants and were promptly informed about the charges against them. The police may detain for investigation for up to 16 days a person suspected of committing a crime for which the sentence is longer than 4 years, and an assistant district attorney or a police inspector may authorize incommunicado detention. The police must bring the accused before a prosecutor to be charged formally in that period, but, if additional time is needed to investigate the charge, a prosecutor and later a judge of instruction may extend the detention period an additional 150 days. The average length of pretrial detention was 30 to 45 days for lesser crimes. Detainees were often held in overcrowded detention cells at local police stations. There is no bail system. Detainees were allowed prompt access to counsel of their choosing, but the prosecutor may prohibit access if he thinks that this could harm the investigation. In practice, the courts freed detainees who were not tried within the 164-day period, in accordance with the law. Defendants enjoyed a presumption of innocence.

There were no reports of political detainees.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, disputes over the appointment of judges to the bench undermined the independence of the judiciary in recent years. The President had yet to confirm the Acting Attorney General, who has served in that position (which has lifetime tenure) since 2000. In addition, the President had yet to appoint a president of the Court of Justice; the acting president has also occupied his position since 2000. The judiciary was significantly hampered by a shortage of judges, which limited the effectiveness of the civilian and military courts. There were only seven permanent judges and five deputy judges, some of whom served part-time, for the entire country, a number that human rights groups and lawyers associations widely viewed as inadequate.

The judicial system consisted of three lower courts, two specialized courts, and the Court of Justice as an appeals court. Although the Constitution calls for the establishment of an independent constitutional court, the National Assembly has not created such a court due to concerns that it would have the authority to overturn government decisions. Other problems the judiciary faced included financial dependency on the Ministry of Justice and Police (and hence the executive branch), lack of professional court managers and case management systems to oversee the courts' administrative functions, and lack of space. These obstacles caused a significant case backlog. The courts required a minimum of 6 months to process criminal cases, and civil cases were resolved approximately 3 to 4 years after being heard by the courts.

The Constitution provides for the right to a fair, public trial in which defendants have the right to counsel. There is no jury system. The courts assign private sector lawyers to defend indigent prisoners, paying the costs from public funds. However, court-assigned lawyers, of whom there were 14, generally appeared at the trial without prior consultation with defendants. According to Moiwana '86, these lawyers often did not appear at all. Detainees have the right to a prompt judicial determination of the legality of their detention, and this was respected in practice.

Military personnel generally are not subject to civilian criminal law. A member of the armed forces accused of a crime immediately comes under military jurisdiction, and military police are responsible for all such investigations. Military prosecutions are directed by an officer on the public prosecutor's staff and take place in sep-

arate courts before two military judges and one civilian judge. The military courts follow the same rules of procedure as the civil courts. There is no appeal from the military to the civil system.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The law requires warrants, which are issued by quasi-judicial officers who supervise criminal investigations, for searches. The police obtained them in the great majority of investigations.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom.

Some media members continued to practice occasional self-censorship, due to a history of intimidation and reprisals by certain elements of the former military leadership and to pressure by senior government officials and other important community leaders on journalists publishing negative or unflattering stories about the administration.

There were 4 daily newspapers, 14 television stations, and approximately 25 radio stations. Two television stations and two radio stations were publicly owned. Three companies, one owned publicly, provided cable television, which included foreign channels.

Unlike the previous year, journalists and media entities were free from harassing lawsuits by public figures.

The Government did not restrict access to the Internet.

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

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

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution and the law provide for these rights, and the Government generally respected them in practice.

The Constitution does not address exile; however, it was not used in practice.

The law does not provide for the granting of asylum or refugee status in accordance the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. Under special circumstances, persons may be granted refugee status, and, in practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. During the year, the Government did not grant asylum or refugee status.

The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through regularly scheduled, free, and fair elections held on the basis of universal suffrage; however, in its 29 years of independence, the country has experienced two military coups, 7 years of military rule, and one instance in which massive public demonstrations forced an agreement to hold elections a year early.

The Constitution stipulates that power and authority rest with the citizens and provides for direct election by secret ballot of the 51-member National Assembly every 5 years. The National Assembly in turn elects the President by a two-thirds majority vote. If the legislature is unable to do so, as was the case both in the 1991 and 1996 national elections, the Constitution provides that a national people's assembly, composed of Members of Parliament and regional and local officials, shall elect the President.

The law allows early elections with the concurrence of both the National Assembly and the President. In May 1999, widespread street demonstrations triggered by the declining economy forced the Government of then-President Wijdenbosch to call early elections, which were held in May 2000. After those elections, which observers

considered to be generally free and fair, the National Assembly elected NPS leader Ronald Venetiaan as President in August 2000.

The Constitution provides for the organization and functioning of political parties. Various parties and two political coalitions were represented in the National Assembly. President Venetiaan formed his cabinet from members of the New Front coalition, comprised of the NPS, a predominantly Creole party; the Progressive Reform Party, a predominantly Hindustani party; the Suriname Labor Party, a political wing of the largest labor union; and Pertjaja Luhur, a predominantly Javanese party.

Corruption of government officials remained a problem; however, the Government prosecuted former Finance and Natural Resource Minister Errol Alibux for embezzlement. Alibux, who was convicted in absentia for corruption in November 2003, returned to the country and surrendered to law enforcement authorities in January. He contested the Court of Justice verdict against him (a 1-year prison term and 3-year bar from public office) via the Inter-American Human Rights Commission, since the Court of Justice is the highest court in the country, and he had no venue for appeal. The appeal was pending at year's end.

Laws provide for public access to government information, and almost every Ministry has an information service; however, access to government information was limited in practice.

Historical and cultural factors, such as early, arranged marriages for Hindu and Muslim women, impeded equal participation by women in leadership positions in government and political parties. In the past, participation by women in politics (and other fields) generally was considered inappropriate. While women made limited gains in attaining political power in recent years, political circles remained under the influence of traditional male-dominated groups, and women were disadvantaged in seeking high public office. There were 10 women in the 51-seat National Assembly, and a woman was Vice Chairperson of the National Assembly. The Cabinet included three women—Minister of Foreign Affairs, Minister of Internal Affairs, and Deputy Minister of Social Affairs. In 2001, the first woman judge joined the Court of Justice.

The Constitution prohibits racial and religious discrimination; however, several factors limited the participation of Maroons (descendants of escaped slaves who fled to the interior to avoid recapture) and Amerindians in the political process. Most of the country's political activity takes place in the capital, Paramaribo, and a narrow belt running east and west of it along the coast. The Maroons and Amerindians were concentrated in remote areas in the interior and therefore had limited access to, and influence on, the political process. There were three Maroon and one Amerindian political parties. In 2000, voters elected eight Maroons and one Amerindian to the National Assembly. There were no Maroons or Amerindians in the Cabinet.

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

A number of domestic and international human rights groups, such as Organization for Justice and Peace, Foundation "Know Your Rights," and Moiwana '86, generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials generally were not cooperative or responsive to their views.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution and laws, with the exception of certain ethnic marriage laws, do not differentiate among citizens on the basis of their ethnic origins, religious affiliations, or other cultural differences. However, in practice, several societal groups, including Maroons, Amerindians, and homosexuals, suffered various forms of discrimination. Societal discrimination against persons with HIV/AIDS also continued. Hospital workers and other health professionals were reluctant to treat infected persons.

Women.—Violence against women was a common problem, which the Government had not addressed specifically. The law does not differentiate between domestic violence and other forms of assault. According to a national women's NGO, Stop Violence Against Women, victims continued to report cases of violence against women and complained of an inadequate response from the Government and society to what appeared to be a trend of increasing family violence. Police received more than 700 reports of domestic violence during the year. In 2002, Stop Violence Against Women, which received reports of approximately 300 abuse cases during the year, stated that of the approximately 300 women reporting abuse most were married, between the ages of 25 and 50, had 2 to 3 children, and were employed in a low-paying job. Although the police were reluctant to intervene in instances of domestic violence,

a national women's group noted that police attitudes had improved. There were victims' rooms in police stations in Nickerie and Paramaribo to provide better services to crime victims. There was no domestic violence hotline.

The law prohibits non-spousal rape. The police reported 59 cases of non-spousal rape during the first 9 months of the year. The public prosecutor's office estimated that approximately 15 rape cases were concluded during the year, with sentences ranging between 5 months' and 5 years' imprisonment.

The law prohibits sexual exploitation, including prostitution; however, in practice, prostitution generally was tolerated. In December, concerns about the link between prostitution and trafficking in persons resulted in raids on commercial sex locations and arrests of prostitutes. Poverty continued to put young women at risk of becoming prostitutes. The presence of large groups of illegal miners in the gold mining sector in the interior drew many young Maroon women into prostitution. Police allowed many brothel-type establishments to operate, and officials asserted that they made random checks on the brothels twice a month to see if women were being abused, held against their will, or having their passports retained by brothel owners to ensure fulfillment of work contract obligations (*see* Section 5, Trafficking).

Various laws were used to prosecute perpetrators of sexual harassment, and several cases of sexual abuse against minors came to trial. The Youth Police reported more than 25 cases of sexual abuse against minor; 13 cases came to trial, resulting in sentences averaging 3 years in prison.

Women have the legal right to equal access to education, employment, and property; nevertheless, social pressures and customs, especially in rural areas, inhibited their full exercise of these rights, particularly with respect to marriage and inheritance. Social pressures on families to have their daughters married at or near the legal age of marriage consent frequently interfered with the girls' education and resulted in the direct passage of all property the women would have inherited from their parents to their husband and parents-in-law in accordance with these customs. Women experienced economic discrimination in access to employment and in rates of pay for the same or substantially similar work. A 2002 report showed that approximately 88 percent of women were employed in entry-level positions, 9 percent had mid-level jobs, and 3 percent held management positions. More than 60 percent of women worked in traditionally female administrative or secretarial jobs. The Government did not make specific efforts to combat economic discrimination.

The National Gender Bureau in the Ministry of Internal Affairs prepared an Integral Gender Action plan for 2000–2005; however, financial and staffing constraints greatly limited its effectiveness. The principal concerns of women's groups were political representation, economic vulnerability, violence, and discrimination.

The National Women's Movement, the most active women's rights NGO, continued assisting women with launching small home-based businesses, such as sewing and growing vegetables, and provided general legal help. Women's Business Group advocated business opportunities for women, while Women's Parliament advocated opportunities in the public sector. Stop Violence Against Women provided assistance to victims of domestic violence, including legal help with dissolving an abusive marriage. The Maxi Linder Foundation worked with commercial sex trade workers, including women and children who were victims of trafficking, and conducted outreach and informational sessions to inform victims of human rights abuses about their rights. Resource constraints continued to limit the effectiveness of these groups.

Children.—The Government allocated limited resources to ensure safeguards for the human rights and welfare of children. Schooling is compulsory until 12 years of age, although some school-age children did not have access to education due to a lack of transportation, building facilities, or teachers. School attendance was free; however, most public schools imposed a nominal enrollment fee, ranging from $10 to $35 (SRD 25 to SRD 100) a year to cover costs. Approximately 85 percent of children in cities attended school; children in the interior did not receive the same level of education as those in the city, and as few as 50 percent actually attended school. There was no legal difference in the treatment of girls and boys in education or health care services, and, in practice, both were treated equally. Children faced increasing economic pressure to discontinue their education to seek employment (*see* Section 6.d.).

Unlike in the past, there were no reports of malnutrition among poor children. There were several orphanages and one privately funded shelter for sexually abused children in the capital, where more than 50 percent of the country's population was concentrated. Elsewhere, distressed children usually relied on the resources of their extended families.

Government medical care for children was generally adequate, and vaccination for all children was obligatory. However, the Government offered very limited mental

health care. An NGO, The Bureau for Child Development, provided mental health care for abused children. There was a home for HIV/AIDS orphans and abandoned children in Paramaribo.

There was no societal pattern of abuse directed against children; however, some children were sexually abused. The legal age of sexual consent is 14; however, it was not enforced strictly. In March, the National Assembly adjusted the Asian Marriage Law to raise the age of marriage consent from 13 to 15 for Asian girls and 15 to 17 for Asian boys, provided parents of the parties agree to the marriage. The age of marriage consent for all other (non-Asian) Surinamers remains at 18 with parental permission, and the permission requirement applies to all individuals up to age 30. The law also mandated the presence of a Civil Registry official to register all marriages.

Trafficking and commercial sex exploitation of minors remained a problem (*see* Section 5, Trafficking). The Salvation Army and a Catholic charitable organization provided shelter for homeless boys.

Trafficking In Persons.—No comprehensive trafficking in persons law exists, but statutes that apply only to women and children prohibit "white slavery," migrant smuggling, and pimping. In practice, these statutes were rarely enforced, and trafficking in persons, including for sexual exploitation, remained a problem. The Police Criminal Law prohibits solicitation, but the law was not enforced. The Government's Anti-trafficking Commission had primary responsibility for combating trafficking; the Commission included representatives from law enforcement (Attorney General's Office and the Military Police, which handles immigration), the ministries of Justice and Police, Labor, Defense, and Foreign Affairs, and the Maxi Linder Foundation. The Commission submitted a proposal to the Minister of Justice and Police in November to bring current legislation in accordance with international anti-trafficking standards.

There were reports of trafficking of women and girls to, through, and within the country for prostitution. Several commercial sex trade establishments in the capital reportedly recruited Brazilian, Colombian, Dominican, Guyanese, and Chinese women for prostitution. There also were reports of underage Hindustani and Maroon girls and Javanese and Hindustani boys trafficked within the country for prostitution by recruiters or caretakers. The police had informal agreements with many brothel owners allowing them to proceed with their business. However, police conducted random checks to ensure that women were not mistreated, that no minors were present, and that owners did not keep the women's airline tickets and passports. During the year, there were fewer than 10 reports of brothel owners retaining passports and airline tickets to uphold contract obligations. In such cases, the police assisted these women to return to their country of origin at their own expense. There were no trafficking convictions during the year; however, on December 10, the police arrested the Deputy District Commissioner of the district of Nieuw Nickerie for trafficking four young Guyanese women into the country for prostitution. The commissioner allegedly enticed the women, one of whom was underage, with promises of employment as restaurant waitresses but, upon their arrival, forced them to work as prostitutes. At year's end, he remained in detention pending a hearing in his case. There were also reports that persons were trafficked to work in Chinese restaurants and supermarkets.

The Public Prosecutor's Office and the police established a registry of all brothels and their employees by nationality. The Public Prosecutor's Office, in cooperation with police officials, extended services provided to victims of domestic violence to possible trafficked victims and, in May, established a "special victims' unit" and a telephone hotline to handle all cases from the commercial sex industry. The Maxi Linder Foundation continued assisting trafficking victims in the commercial sex industry. Police cooperated with Curacao and Guyana law enforcement on three trafficking in persons cases.

In November, the Anti-trafficking Commission, with the approval of the Minister of Justice and Police, issued a National Action Plan to combat trafficking in persons and two operations manuals on identifying and prosecuting trafficking, one for police and another for immigration. In December, pursuant to the plan, the Minister of Justice and Police created a Special Police Unit to conduct investigations and raids. Police raids on brothels and informal commercial sex locations resulted in the deportation of several prostitutes. Other steps outlined in the plan included instituting a system of checks for visa adjudications and preventing trafficking through informational campaigns. Success in implementing these was not yet clear at year's end.

On February 24, the popular radio and television station ABC began running public education programming aimed at combating trafficking in persons. In early

March, ABC held two 1-hour television and radio interviews with government and NGO representatives to discuss trafficking issues. On October 27–28, an International Organization for Migration program in Paramaribo focused on preventing trafficking in persons and assisting its victims. The program targeted an audience of approximately 30 government officials. In November and December, the country's two leading newspapers published articles on trafficking in persons that quoted senior public officials.

Persons With Disabilities.—There were no laws concerning persons with disabilities, no provisions for making private or public buildings accessible to them, nor any laws mandating that they be given equal consideration when seeking jobs or housing. Some training programs were provided for the blind and others with disabilities. In general, persons with disabilities suffered from discrimination when applying for jobs and services.

National/Racial/Ethnic Minorities.—The law prohibits discrimination on the basis of race or ethnicity, and no discrimination complaints were filed during the year; however, Maroons, who numbered approximately 10 percent of the population, continued to be disadvantaged in the areas of education, employment, and government services. Most Maroons lived in the interior, where limited infrastructure narrowed their access to educational and professional opportunities and health and social services. Maroons in Paramaribo suffered from negative social stereotypes. In a March report to the U.N. High Commission for Human Rights, the Government stated that employers did not discriminate against Maroons and that Maroons (as well as Amerindians) were consulted when rights to their traditional agricultural and hunting lands were granted to various concessionaires. The report did acknowledge logistical and financial difficulties the Government faced in providing education to populations spread out over large distances and conceded the need to do more to address health and environmental concerns linked to gold mining, such as mercury contamination.

The start of official gold mining activities by the Gross Rosebel Goldmines Company raised protests in June and July from neighboring Maroon villages regarding the company's recruitment policy and competition for land rights for their own mining activity. The Maroon residents blocked roads to the mining operations and commandeered a bus carrying company workers, who were later released unharmed. The police restored order, and no one was arrested.

Indigenous People.—The Constitution affords no special protection for, or recognition of, indigenous people. Most Amerindians (about 3 percent of the population) suffered a number of disadvantages and had only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. The country's political life, educational opportunities, and jobs were concentrated in the capital and its environs, while the majority of Amerindians (as well as Maroons) lived in the interior. Government services in the interior were largely unavailable, and much of the infrastructure was destroyed during the 1986–92 interior war; progress in reestablishing services and rebuilding the infrastructure was very slow. Following demonstrations in 2001 by veterans of the Jungle Commando, who played a large role in the insurgencies, their de facto leader Ronny Brunswijk and the Minister of Regional Development agreed to schedule quarterly meetings to monitor implementation of the 2001 Lelydorp Accord. Official and informal meetings between the involved parties continued without substantive results. During the year, the Government integrated 10 former Jungle Commando members into the police but had not implemented the native land rights portion of the agreement. The Government's March report to the U.N. High Commission on Human Rights described actions taken to protect the rights of Amerindians and Maroons, as well as areas for improvement (*see* Section 5, Minorities). The Government proclaimed the U.N.'s International Indigenous Day a holiday.

The Amerindian (and Maroon) populations continued to face problems with illegal and uncontrolled logging and mining.

Organizations representing Maroon and Amerindian communities complained that small-scale mining operations, mainly by illegal gold miners, dug trenches that cut residents off from their agricultural land and threatened to drive them away from their traditional settlements. Mercury runoff from these operations also contaminated and threatened traditional food source areas.

In 2000, the Vereniging van Saramakaanse Gezagdragers, an organization representing 12 Saramaccaner clans with authority over 60 villages in the Upper Suriname River area of central Suriname, filed a petition with the IACHR claiming that lumber operations, mostly by Chinese-owned concessions, threatened their way of life. The IAHCR heard the case, and its decision remained pending at year's end. The concessionaries ceased their activities. Meanwhile, the Government granted

permission to a Chinese company to start a palm-oil factory in the district of Marowijne in the eastern part of the country. The company also received permission for large-scale logging in concessions around the factory. The Maroon communities in the vicinity of the factory protested and threatened to use violence if the Chinese began logging activities; however, a government-established interagency committee mediated, urging acceptance of the deal, since the company would hire local workers. In December, the company and the interagency committee reached agreement for logging to begin within 3 months. Human rights and environmental groups continued monitoring the joint venture activities of SURALCO and BHP Billiton, which were exploring the possibility of mining bauxite and generating hydropower in the western part of the country.

Maroon and Amerindian groups continued to cooperate with each other in an effort to exercise their rights more effectively.

Other Societal Abuses.—The law prohibits discrimination on the basis of sexual orientation; however, homosexuals continued to suffer from employment discrimination. Persons with HIV/AIDS continued to experience societal discrimination in employment and medical services.

Section 6. Worker Rights

a. The Right of Association.—The Constitution protects the right of workers to associate and to choose their representatives democratically. Nearly 60 percent of the work force was organized into unions, and most unions belonged to one of the country's six major labor federations. Unions were independent of the Government but played an active role in politics.

b. The Right to Organize and Bargain Collectively.—The Constitution recognizes the right to organize and bargain collectively, and the authorities generally respected this right in practice. Collective bargaining agreements covered approximately 50 percent of the labor force. There are no export processing zones.

The Constitution provides for the right to strike, and workers in both public and private sectors exercised this right in practice.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children; however, a local NGO reported that child prostitution existed (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum age for employment at 14 years and restricts working hours for minors to day shifts but does not specify the length of such day shifts. Children younger than 18 are prohibited from doing hazardous work, defined as work dangerous to their life, health, and decency; and those younger than 14 are only allowed to work in a family or special vocational setting or for educational purpose. However, the Ministry of Labor and the police enforced this law only sporadically, and child labor remained a problem in the informal sector.

Children under 14 worked as street vendors, newspaper sellers, rice and lumber mill workers, packers for traders, or shop assistants. Working hours for youths were not limited in comparison with the regular work force. Employers in these sectors did not guarantee work safety, and children often worked barefoot and without protective gloves, with no access to medical care. Although government figures reported that only 2 percent of children were economically active, a 2002 survey conducted by the Institute for Training and Research found that 50 percent of children between the ages of 4 and 14 were economically active, working mainly in the informal sector. The worst forms of child labor, such as prostitution, remained a problem; there were reports of abuse of commercial sexual exploitation of children and teens by caretakers and older recruiters (*see* Section 5). In June, the country ratified International Labor Convention 182 on the elimination of the worst forms of child labor.

The Ministry of Labor's Department of Labor Inspection, with about 30 inspectors, has responsibility to implement and enforce the labor laws, including those pertaining to the worst forms of child labor. Staff shortages limited the extent and frequency of labor inspections; inspectors performed approximately 10 inspections per day, concentrated in the greater capital area and in the western district of Nickerie, where most of the population lives. The Government did not investigate exploitative child labor cases outside urban areas. An estimated total of 450 inspections were performed during the year, with none resulting in penalties or convictions for child labor. As in the past, labor inspectors were not authorized to conduct inspections in the informal sector, where child labor remained a problem, as responsibility for controlling the informal sector lies with police.

In September, the police began raids on known child labor locations in Paramaribo, including street spots where underage vendors worked, as well as nightclubs, casinos and brothels, in order to combat the problem.

Suriname Labor College and other unions subsidized by the Ministry of Labor conducted campaigns aimed at eliminating child labor in its worst forms in various districts of the country, including Nickerie, Paramaribo, and Marowijne; the campaign targeted public and private sector officials, school teachers, students, and caregivers.

e. Acceptable Conditions of Work.—There was no legislation providing for a minimum wage. Including a cost of living allowance, the lowest wage for civil servants was approximately $160 (SRD 427) per month, which did not provide a decent standard of living for a worker and family. Government employees, who constituted approximately 50 percent of the work force of 100,000 persons, frequently supplemented their salaries with second or third jobs, often in the informal sector. The President and Council of Ministers set and approved civil service wage increases.

Work in excess of 9 hours per day or 45 hours per week on a regular basis required special government permission, which was granted routinely. Such overtime work earned premium pay. The law requires one 24-hour rest period per week.

A 10- to 12-member inspectorate in the Occupational Health and Safety Division of the Ministry of Labor was responsible for enforcing occupational safety and health regulations. Resource constraints and lack of trained personnel precluded the division from making regular inspections. There was no law authorizing workers to refuse to work in circumstances they deem unsafe; they must appeal to the inspectorate to declare the workplace situation unsafe.

TRINIDAD AND TOBAGO

Trinidad and Tobago is a parliamentary democracy governed by a prime minister and a bicameral legislature. Parliament also elects a president, whose office is largely ceremonial but with some appointive power. In the 2002 general elections, which observers considered free and fair, Prime Minister Patrick Manning's People's National Movement (PNM) secured a 20 to 16 seat victory over the United National Congress (UNC), breaking an 18 to 18 tie in Parliament and ending a 9-month parliamentary stalemate. The judiciary is independent.

The Ministry of National Security oversees the police service, prison service, and the defense force, rendering them responsive to civilian authority. The police service maintains internal security. The defense force is responsible for external security but also has certain domestic security responsibilities. An independent body, the Police Service Commission, makes hiring and firing decisions in the police service, and the Ministry had little direct influence over changes in senior positions. While the civilian authorities maintained effective control of the security forces, some members of the security forces committed human rights abuses.

Oil and natural gas production and related downstream petrochemical industries, including ammonia and methanol production, comprised the foundation of the market-based economy. The country's population was approximately 1.3 million. The service sector was the largest employer, although the industrial and construction sectors also were significant. Real Gross Domestic Product grew at 6.2 percent, while inflation was 4.75 percent. Wages generally did not keep pace with inflation. Favorable energy prices contributed to the overall well being of the economy.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were police killings during apprehension and deaths of persons while in custody, poor prison conditions, and reports of police and guard abuse of prisoners. Violence against women remained a problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the Government and its agents; however, 21 persons died during the year while in police custody or at the hands of police. Excessive use of force continued to be a concern.

On January 24, a police officer shot two unarmed men during an altercation at a Carnival party. One of the men died instantly, while the other man fled. In June, a Magistrate's Court charged the officer with manslaughter and released him on bail pending a trial.

On April 2, police shot and killed Galene Bonadie with an assault rifle. Bonadie reportedly was involved in a verbal altercation with police when an officer shot her in the head at close range. The Director of Public Prosecutions ordered an inquest into the incident, and the Homicide Bureau interviewed four policemen and six eyewitnesses. A trial was underway at year's end.

On June 13, Noel Stanley died in police custody after he was apprehended for alleged possession of marijuana. Stanley died in the emergency room 3 hours after his arrest. A postmortem found signs of beating and strangulation. The Homicide Bureau investigated the incident, and a final disposition was pending at year's end.

There were no developments in the 2003 case of Gideon Edwards, who was killed by police, or the 2003 case of Shaun McLeod, who died while in police custody.

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

Criminal kidnappings continued to be a problem, with 165 reported incidents at year's end. Citizens especially were concerned with kidnappings for ransom, 28 of which occurred during the year; however, this total represented a considerable reduction from the 51 reported incidents in 2003.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, there were credible reports of police and prison personnel mistreating citizens in incidents that involved beating and sexual abuse.

In April, Camille Mitchell claimed that she suffered a miscarriage as a result of police mistreatment during a search of her home. Mitchell was involved in a physical altercation with her cousin when the officer allegedly slapped her and slammed her into a chair.

Also in April, a Golden Grove Remand Center inmate claimed that prison guards beat him with a hose and sexually assaulted him with a wooden baton. The prisoner sued five officers and the Office of the Attorney General. The Commissioner of Prisons conducted an investigation and submitted a report to the Minister of National Security. Additional investigations were ongoing at year's end.

In June, Noel Stanley died in police custody after police officers allegedly severely beat him (*see* Section 1.a.).

In July, Danesh Mahabir sued police officials for assault and battery and unlawful detention that occurred in November 2003. During the incident, police allegedly knocked Mahabir to the ground, kicked him in the ribs, beat him with a baton, and slammed his hands in a car door. The suit was ongoing at year's end.

Prison conditions were harsh. Overcrowding was severe, particularly at the Port of Spain Prison, which held approximately 900 prisoners, although designed to hold only 250 inmates when it was built in 1812. Amnesty International (AI) reported that one cellblock held 114 prisoners in 10 feet by 10 feet cells, with upwards of 14 prisoners per cell.

Conditions were extremely unsanitary. Illnesses such as tuberculosis, HIV/AIDS, conjunctivitis, and scabies spread easily. Waste for one cellblock was disposed of within 5 feet of the meal preparation area, and there were reports of insects infesting the entire facility. During the year, AI reported that conditions amounted to "cruel, inhuman, and degrading treatment."

Conditions at the maximum-security prison in Arouca and the Golden Grove Remand Center also were poor. On two separate occasions, judges declined to sentence elderly convicts to prison terms, citing the risk of death due to unsanitary conditions and inadequate medical facilities.

The maximum security prison had an intended capacity of 2,400 persons but, due to a faulty sewage system and inadequate electronic security, held only 800 prisoners and did little to relieve the overcrowding in the detention system.

There was a separate prison facility for women, and conditions generally met international standards. The Youth Training Center held children between the ages of 15 and 19. Younger children were sent to the Boy's Industrial School.

Pretrial detainees were held separately from convicted prisoners, although they could be in the remand section of the same facilities as convicted prisoners.

The Government permitted prison visits by independent human rights observers, but the Ministry of National Security must approve each visit. Following prison visits during the year, members of the Criminal Bar Association threatened legal action if the Government did not take steps to improve prison conditions.

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

The national police force is divided into 9 countrywide divisions, including 17 specialized branches, and had approximately 7,000 members. The Police Service Commission, upon consultation with the Prime Minister, appoints a Commissioner of Police to oversee the police force. Municipal police under the jurisdiction of 14 regional

administrative bodies supplement the national service. A Special Crime Fighting Unit, composed of police and Defense Force personnel, conducted joint operations to combat violent crime, kidnappings for ransom, and other security issues.

Police corruption continued to be a problem. On at least two occasions during the year, police were apprehended with drugs, guns, and grenades and in connection with other illicit activities. An independent body, the Police Complaints Authority, received complaints about the conduct of police officers, monitored the investigation of complaints, and determined disciplinary measures where appropriate, including dismissal. However, Police Service Commission restrictions limited the authority's ability to dismiss police officers, and a large backlog of outstanding complaints eroded the public's confidence in this organization. Recent governments identified a need for reform because the commission inhibits how the commissioner and his senior staff may discipline offending officers operationally.

A police officer may arrest a person either based on a warrant issued or authorized by a magistrate or without a warrant when the officer witnesses commission of the alleged offense. For less serious offenses, the authorities typically brought the accused before a magistrate by way of a summons, requiring the accused to appear within 48 hours, at which time the accused could enter a plea. For more serious offenses, when the accused was brought before the court, the magistrate proceeded with a preliminary inquiry or, alternatively, committed the accused to prison on remand or allowed the accused to post bail until the inquiry. In practice, serious offenders also were charged within 48 hours following arrest.

The court may, and customarily did, grant bail to any person charged with any offense other than murder, treason, piracy, hijacking, or for any other offense for which death was the penalty fixed by law. In cases in which bail was refused, magistrates advised the accused of their right to an attorney and, with few exceptions, allowed them access to an attorney once they were in custody and prior to any interrogation. Police have the authority, under the Summary Courts Act, to grant bail to individuals charged with summary offenses. Detainees were granted prompt access to a lawyer and to family members.

The Minister of National Security may authorize preventive detention in order to prevent actions prejudicial to public safety, public order, or national defense, and the Minister must state the grounds for the detention. There were no reports that the authorities abused this procedure.

Lengthy pretrial detention, which resulted from heavy court backlogs and an inefficient judiciary system, continued to be a problem. On average, criminal indictees waited 19 months before going to trial, and some inmates had not seen an attorney for 3 years or more. In July, the Fourth Criminal Court acquitted Nicholas John and Keino Lewis of murder after they had spent 7 years in jail awaiting trial. In July, two men sued the Attorney General for false imprisonment and malicious prosecution after spending more than a year in prison on charges for which they later were acquitted. As of July, more than 17,000 matters remained outstanding before the courts, dating from 1998. Courts handled an average of 35 to 60 matters per day and 11,434 cases per year.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary provided citizens with a fair judicial process, albeit at a slow pace due to backlogs and inefficiencies. In a speech opening the annual law term, Chief Justice Satnarine Sharma described dilapidated court buildings unfit for proceedings, archaic rules, an antiquated court reporting system, poor caseload management, and slow, expensive, and inequitable access to justice.

The judiciary is divided into a Supreme Court of Judicature and the Magistracy. The Supreme Court is composed of the Court of Appeal and the High Court; the Magistracy includes the summary courts and the petty civil courts.

All criminal proceedings commence with the filing of a complaint in the summary court. Magistrates try minor offenses. For more serious offenses, the magistrate must conduct a preliminary inquiry. If there is sufficient evidence to support the charge, the accused is committed to stand trial before a judge and jury of the High Court. All civil matters are heard by the High Court. Both civil and criminal appeals may be filed with the local court of appeal and ultimately to the Privy Council in London.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. All criminal defendants have the right to an attorney and are considered innocent until proven guilty. In practice, the courts sometimes appointed attorneys for indigent persons charged with indictable offenses (serious crimes). The law requires the provision of an attorney to a person accused of

murder. An indigent person may refuse to accept an assigned attorney for cause and may obtain a replacement.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

A Board of Film Censors is authorized to ban films that it considers to be against public order and decency or contrary to the public interest. This includes films that it believes may be controversial in matters of religion or race, or that contain seditious propaganda. In practice, films rarely were banned.

The Government did not restrict access to the Internet.

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

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

There was no official state religion and the Government did not subsidize any particular religion. The Government limited the number of foreign missionaries allowed to enter the country to 30 per denomination. Missionaries must meet standard requirements for an entry visa, must represent a registered religious group, and may not remain in the country for more than 3 years at a time.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and it was not used.

In 2000, the Government acceded to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, but the Government still had not passed legislation to implement obligations accepted under the Convention. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government placed asylum seekers in the care of a local nongovernmental organization (NGO) pending resolution of their cases, which were reviewed by the office of the UNHCR. Until Parliament approves the legislation, the Ministry of National Security's Immigration Division handled any requests for asylum on a case-by-case basis.

During the year, 13 individuals (6 Liberians, 5 Haitians, 1 Bangladeshi, and 1 Rwandan) requested asylum, and their applications were pending at year's end.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens could freely choose and change the laws and officials that govern them. The most recent national election was held in October 2002, and observers found it to be generally free and fair.

The two major political parties were the PNM (primarily but not exclusively Afro-Trinidadian) and the UNC (primarily but not exclusively Indo-Trinidadian). Voters in the 2002 national elections supported the PNM, which retained control of the Government. The PNM has held power continuously since independence in 1962, with the exception of 1986–91 (National Alliance for Reconstruction) and 1995–2001 (UNC). The PNM's dominance was not due to government restrictions on the political opposition.

According to Transparency International, the perception of corruption in the country increased each year since 2001. During the year, the courts heard a case that implicated members of the then-governing UNC in embezzlement and bid rigging on the Piarco Airport expansion project. The proceedings were still ongoing at year's end.

The Freedom of Information Act provides for public access to government documents upon application. The Integrity in Public Life Act mandates that government figures publicly disclose their assets each year to an Integrity Commission. In 2002, former Prime Minister Panday was arraigned in Magistrate's Court under this Act in connection with alleged corruption that occurred during his tenure as Prime Minister.

There were 21 women in the 66-seat legislature; there were 6 women in the cabinet.

Both major political parties reached out to voters from relatively small ethnic groups, and members of these groups occupied significant positions in the Government. There were 6 members of minorities in the 66-seat legislature. There was one member of a minority in the cabinet.

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

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

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Government generally respected in practice the constitutional provisions for fundamental human rights and freedoms for all without discrimination based on race, origin, color, religion, or sex.

Women.—Abuse of women continued to be a significant problem. Local NGOs estimated that abuse affected 20 to 25 percent of women, although there were no reliable statistics available. There was increased media coverage of domestic abuse cases and signs of a shift in public opinion, which previously had held that such cases were a private matter. The Domestic Violence Act provides for penalties, including fines and imprisonment, for spousal abuse. Police were somewhat responsive to reports of domestic violence, but NGOs reported a need for further reforms. The Government operated a 24-hour hotline for victims of rape, domestic violence, or other violence against women, which received calls and referred victims to shelters, counseling, or other assistance. The police service reorganized its community police unit, which had been trained especially to deal with crimes against women, attaching its members to regular units to train other officers and expand its reach.

Rape was illegal and punishable by life imprisonment, although the courts often issued significantly shorter sentences. Murder, rape, and other crimes against women were reported frequently, but NGOs estimated that many sexual crimes went unreported. Police generally were responsive to reports of rape; however, there also were many complaints of police insensitivity in dealing with rape victims.

Two government ministries, operating independently, directed the NGOs that ran most of the country's social programs addressing domestic violence, including eight shelters for battered women. A rape crisis center offered counseling for rape victims on a voluntary basis.

Prostitution is illegal, and the authorities continued to monitor and pursue prosecutions against persons charged with soliciting for the purpose of prostitution.

There are no laws specifically pertaining to sexual harassment, although related laws could be applied. Most cases of sexual harassment in the workplace went unreported.

Many women held positions in business, the professions, and government. Nevertheless, men still tended to hold most senior positions. There was no law or regulation requiring equal pay for equal work, and pay discrepancies existed. Women had equal inheritance rights, including after divorce or separation from their spouses. Women's attendance in primary and secondary school was equal to that of men's.

The Division of Gender Affairs in the Ministry of Community Development, Culture, and Gender Affairs was responsible for protecting women's rights in all aspects of government and legislation. Several active women's rights groups also existed, including the Women's Federation and Working Women for Social Progress.

Children.—A lack of funds and expanding social needs challenged the Government's ability to carry out its commitment to protect children's rights and welfare. Education was free, compulsory, and universal up to age 12. The Ministry of Education estimated that 89 percent of school age children attended school. Public education was available through age 20, and most students achieved the equivalent of a high school diploma. Some parts of the public school system failed to meet the needs of the school age population due to overcrowding, substandard physical facilities, and occasional classroom violence. The Government committed resources to building new facilities and expanded access to free secondary education.

Medical care for children was widely available, and both girls and boys enjoyed equal access.

The Domestic Violence Act provides protection for children abused at home. Abused children removed from the home were placed with relatives, government institutions, or NGOs.

The law establishes the upper age in the definition of a child at 18 years of age, abolishes corporal punishment for children under 18, and prohibits sentencing a person under 18 to prison.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country. In the event of trafficking, perpetrators can be prosecuted under several related laws, with penalties ranging from 7 years' to life imprisonment. There were no prosecutions during the year. The Government had not designated a specific agency to combat trafficking in persons, and it sponsored no public awareness campaigns to address this issue during the year. Domestic NGOs handled the care and oversight of trafficking victims.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. No legislation specifically enumerates or protects the rights of persons with disabilities or mandates the provision of access to buildings or services. The lack of access to transportation, buildings, and sidewalks was a major obstacle for persons with disabilities. The Government provided some public assistance and partial funding to a variety of NGOs, which, in turn, provided direct services to members or clients with disabilities.

The Office of the Prime Minister's Social Services Delivery Unit is responsible for addressing the concerns of the disabled community. In August, this agency held a consultation conference with members of the disabled community and other stakeholders to review the Government's National Policy on Persons with Disabilities.

National/Racial/Ethnic Minorities.—Various ethnic and religious groups lived together peacefully, generally respecting one another's beliefs and practices. However, at times, racial tensions appeared between Afro Trinidadians and Indo-Trinidadians, each of which make up approximately 40 percent of the population. Indo-Trinidadians and persons of European, Middle Eastern, or Asian descent dominated the private sector. Indo-Trinidadians predominated in agriculture as well. Afro-Trinidadians were employed heavily in the civil service, police, and armed forces. Some Indo-Trinidadians asserted that they were excluded from equal representation in the civil service due to racial discrimination. Some Indo-Trinidadians also denounced the use of the Trinity Cross as the nation's highest award, claiming that its Christian motif was not representative of a multi-religious society.

Indigenous People.—A very small group of the population identified themselves as descendants of the original Amerindian population of the country. The Government effectively protected their civil and political rights, and they were not subject to discrimination.

Section 6. Worker Rights

a. The Right of Association.—The Industrial Relations Act (IRA) provides that all workers, including those in state-owned enterprises, may form and join unions of their own choosing without prior authorization. The IRA provides for the mandatory recognition of a trade union when it represents 51 percent or more of the workers in a specified bargaining unit. An estimated 18 percent of the work force was organized in approximately 25 active unions. Most unions were independent of government or political party control, although the Sugar Workers' Union historically was allied with the UNC.

A union also may bring a request for enforcement to the Industrial Court, which may order employers who are found guilty of anti-union activities to reinstate workers and pay compensation, or impose other penalties including imprisonment

b. The Right to Organize and Bargain Collectively.—The law allowed unions to conduct their activities without interference, to participate in collective bargaining, and to strike, and the Government protected these rights in practice. However, employees in "essential services," such as police and teachers, do not have the right to strike. These employees negotiated with the Government's Chief Personnel Officer to resolve labor disputes. There are several export processing zones (EPZs). The same labor laws applied in the EPZs as in the rest of the country.

There were significant legal strikes during the year.

The Labor Relations Act prohibits retaliation against strikers and provides for grievance procedures through the Industrial Court. This court consisted of govern-

ment, business, and labor representatives, and most observers considered it to be impartial.

c. Prohibition of Forced or Compulsory Labor.—The law does not specifically prohibit forced or compulsory labor, including by children; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum legal age for workers is 12 years. Children from 12 to 14 years of age may work only in family businesses. Children under the age of 18 legally may work only during daylight hours, with the exception of 16- to 18-year-olds, who may work at night in sugar factories. The Ministry of Labor and Small and Micro Enterprise Development and the Social Services Delivery Unit of the Office of the Prime Minister are responsible for enforcing child labor provisions. Enforcement was not consistent because there was no comprehensive government policy on child labor, and there were no specific systematic mechanisms for receiving, investigating, and addressing child labor complaints.

There was no organized exploitation of child labor, but a 2002 UNICEF study estimated that 1.2 percent of children from 5 to 14 years of age were engaged in paid work, and that 0.3 percent were engaged in unpaid work for someone other than a family member.

The Government ratified ILO Convention 182 on elimination of the worst forms of child labor in April 2003; however, it had yet to enact the relevant enabling legislation by year's end. In August, the Government held the inaugural meeting of the National Steering Committee on the Prevention and Elimination of Child Labour. The Committee was tasked with developing a comprehensive National Policy on child labor.

e. Acceptable Conditions of Work.—The national minimum wage is $1.33 (TT$8.00) per hour, which did not provide a decent standard of living for a worker and family. Actual wages varied considerably among industries, and most workers earned more than the minimum wage. The Ministry of Labor enforced minimum wage regulations.

The Minimum Wages Act establishes a 40-hour workweek, time and a half pay for the first 4 hours of overtime on a workday, double pay for the next 4 hours, and triple pay thereafter. For holidays and days off, the act provides for double pay for the first 8 hours and triple pay thereafter. Daily rest periods and paid annual leave formed part of most employment agreements.

The Factories and Ordinance Bill sets requirements for health and safety standards in certain industries and provides for inspections to monitor and enforce compliance. The IRA protects workers who file complaints with the Ministry of Labor regarding illegal or hazardous working conditions. If it is determined upon inspection that hazardous conditions exist in the workplace, the worker is absolved for refusing to comply with an order that would have placed him or her in danger.

URUGUAY

The Oriental Republic of Uruguay is a constitutional republic with an elected president and a bicameral legislature. On October 31, in free and fair elections, Tabare Vazquez, leader of the Broad Front or Encuentro Progresista-Frente Amplio (EP-FA) coalition, won a 5-year presidential term. Vazquez was scheduled to assume office on March 1, 2005. The judiciary is independent.

The Interior Ministry administers the country's police departments and the prison system and is responsible for domestic security and public safety. The military is responsible for external security within the prison system. Civilian authorities exercised effective control over the security forces. Some members of the security forces committed some human rights abuses.

The economy, which continued its second year of recovery from a 4-year recession, is a mixture of private and state enterprises and is heavily dependent on agricultural exports and agroindustry. The country's population is estimated at 3.4 million. The leading exports are meat, leather, and rice. The unemployment rate was 12.5 percent. Although the economy grew at a rate of 11.3 percent, output remained far below pre-2003 recession levels. Inflation was 7.8 percent, compared with 19.4 percent in 2003. Real wages stabilized during the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were reports of police violence, including abuse of prisoners in the jails and police stations; prison conditions remained poor;

and court cases sometimes lasted for many years, resulting in lengthy pretrial detention. Violence against women, alleged discrimination against women and the Afro-Uruguayan minority, and trafficking in persons were problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings.

There were no new developments respecting the charges of aggravated homicide filed in June 2003 against former Minister of Foreign Affairs, Juan Carlos Blanco, in connection with the death of Elena Quinteros in 1976.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, there were reports of abuse of prisoners, many of which the Government investigated. The judicial and parliamentary branches of government are responsible for investigating specific allegations of abuse. Human rights groups reported that police sometimes mistreated detainees. Detainees rarely filed complaints, but the Government investigated those complaints that were filed.

Conditions in prisons were poor and deteriorated during the year. There were numerous reports of abuse of prisoners inside the prison system. An investigation into a claim that a guard at the Libertad Prison tortured two prisoners accused of raping children remained pending at year's end. Human rights groups and an organization of the families of prisoners alleged that prisoners were routinely beaten during processing and during searches; that food, bedding, and clothing were of poor quality and insufficient quantity; and that access to medical care was poor. Poor sanitation was blamed for an outbreak of bacterial infection among prison inmates.

Overcrowding continued due to budget problems and stronger minimum sentencing guidelines adopted during the 1990s. The prison population stabilized during the year, but there were approximately 7,000 prisoners in prison facilities designed to hold only 2,940, which caused sanitation, social, and health problems in the major facilities. The Libertad prison, badly damaged in a riot in 2002, continued to house hundreds of prisoners, despite its official capacity of zero. As a temporary solution, the Government held some of the overflow prisoners in modified shipping containers. To alleviate overcrowding, the Government used modular cells to house the most dangerous inmates at the Libertad facility; the cells lacked running water and posed sanitation problems.

In addition to overcrowding, the penal system suffered from understaffing and corruption. Prisoners were not always separated according to the severity of their crimes. Narcotics, weapons, and cell phones were smuggled into several facilities, allegedly with official collusion. Family visitation, in which family members provide food to supplement a prisoner's diet, was allowed, but it was made difficult as the family members were subjected to invasive searches, sometimes under unhygienic conditions.

According to press reports and the regional AIDS rights organization, Asociacion de Ser Positivo, the majority of prisoners infected with HIV and AIDS did not receive adequate treatment or medication. Disease transmission rates and the extent of the infection within the inmate population were unknown.

Female prisoners were held in separate facilities from male prisoners with the exception of the Artigas Prison, in which women were housed in a separate facility within the prison. In general, conditions for female prisoners were significantly better than for male prisoners due to the small population and the availability of training and education opportunities.

Minors were held in institutions operated by the National Institute for Adolescents and Children (INAU). Juveniles who committed serious crimes were incarcerated in juvenile detention centers, which resemble traditional jails and have cells. Conditions in some of these facilities were as bad as in the adult versions, with some youths permitted to leave their cells only 1 hour per day.

Juvenile offenders who were not considered to pose a threat to society were placed in halfway house facilities, oriented towards rehabilitation. These facilities provided educational, vocational, and other opportunities, and the juvenile offenders were able to enter and leave without restriction.

Pretrial detainees were not held separately from convicted prisoners.

Unlike in the previous year, the Government permitted general prison visits by independent human rights observers as well as inmate visitation and visits from foreign diplomats.

d. Arbitrary Arrest or Detention.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice. The law requires the police to have a written warrant issued by a judge before making an arrest (except when the police apprehend the accused during commission of a crime), and the authorities generally respected this provision in practice.

The National Police numbered approximately 30,000 officers with broad jurisdiction under the direction of the Ministry of Interior. The police have a hierarchical structure with the Chief of Police, Director of Intelligence Unit, and Director of the Drug Unit reporting to the Vice Minister of the Interior. The Minister of Interior attempted to reform the police by creating a service mentality and moving toward a community-policing model; however, low salaries resulted in petty corruption and officers taking second jobs to support their families. New police officers earned $169 (4,480 pesos) per month, and 15-year veterans earned $235 (6,230 pesos) per month.

An internal police investigative unit receives complaints from any person concerning possible noncriminal police abuse of power, but it was understaffed and only could issue recommendations for disciplinary action. Ministry of Interior authorities responded promptly to accusations of alleged police brutality. Police officers charged with less serious crimes may continue on active duty; those charged with more serious crimes were separated from active service until a court resolves their cases. The law requires a proportional use of force by the police and the use of weapons only as a last resort, and this law was respected in practice.

The Constitution provides the accused with the right to a judicial determination of the legality of detention and requires that the detaining authority explain the legal grounds for the detention. Police may hold a detainee incommunicado for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. The law stipulates that confessions obtained by the police before a detainee appears before a judge and attorney (without the police present) have no validity. Further, a judge must investigate any detainee claim of mistreatment.

If the detainee cannot afford a lawyer, the courts appoint a public defender. If the crime carries a penalty of at least 2 years in prison, the accused person is confined during the judge's investigation of the charges unless the authorities agree to release the person on bail (which seldom happens). As a result, between 60 and 65 percent of all persons incarcerated were awaiting a final decision in their case. However, only those committing more serious crimes were actually jailed while waiting for the judge to investigate charges. The majority of persons facing charges were not jailed. The length of time an accused spends in jail pending trial also varied depending on the complexity of the case and the size of the judge's docket. The uncertainty respecting length of imprisonment contributed to tension in the prisons.

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

The Supreme Court heads the judiciary system and supervises the work of the lower courts. Criminal trials are held in a court of first instance. Aggrieved parties have a right of appeal to the Appellate Court but not to the Supreme Court. A parallel military court system operates under a Military Justice Code. Two military justices sit on the Supreme Court but participate only in cases involving the military. Military justice applies to civilians only during a state of war or insurrection.

Trial proceedings usually are based on written arguments to the judge, which normally are not made public. Only the judge, prosecutor, and defense attorney have access to all documents that form part of the written record. Individual judges may hear oral arguments at their option. Most judges choose the written method, a major factor slowing the judicial process. Defendants enjoy a presumption of innocence. Either the defense attorney or the prosecutor may appeal convictions to a higher court, which may acquit the person of the crime, confirm the conviction, or reduce or increase the sentence.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these provisions in practice and did not restrict academic freedom; however, the authorities may abridge these rights if persons are deemed to be inciting violence or "insulting the nation."

The Inter American Press Association reported that at least 15 journalists and 3 media outlets were subject to criminal prosecution for news and opinions published in the course of their work as journalists. Two of these journalists and one media

outlet were forced to publish court rulings, and one journalist, who received a 10-month suspended prison sentence, remained under police supervision pursuant to a court order. In addition, 10 journalists and 4 media outlets were sued in civil court for news and opinions published in the course of their work as journalists. Four of these reporters and one media outlet were ordered to pay damages even though the accuracy of the published information was not challenged.

The independent media were active, and all elements of the political spectrum freely expressed their viewpoints in both print and broadcast media. However, human rights activists and journalists alleged that state enterprises such as the telephone and electric companies on occasion withheld advertising from independent media that were critical of the Government and favored media friendly to the Government with extensive paid advertising.

The law provides for free expression and communication of thoughts and opinions, within the limits contained in the Constitution, and it outlines methods of responding to "inexact or aggravating information." The law provides for between 3 months and 2 years imprisonment for "knowingly divulging false news that causes a grave disturbance to the public peace or a grave prejudice to economic interests of the State" or for "insulting the nation, the State, or their powers." The authorities rarely used this law and did not do so during the year.

Access to the Internet was available and unrestricted.

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

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

There is a strict separation of church and state, and religious instruction in public schools is prohibited.

In April, anti-Semitic and pro-Nazi statements were painted in and around Jewish cemeteries. Authorities quickly painted over the graffiti, and no arrests were made. There were no developments in the case of three juvenile skinheads indicted on charges related to anti-Semitic harassment in 2002.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution provides that in extreme cases of national emergency an individual may be given the option to leave the country as an alternative to trial or imprisonment; however, this option has not been exercised for at least 2 decades.

The law provides for the granting of refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status and grants asylum only for political crimes as set forth in the 1928 Treaty of Havana, the 1889 Treaty of Montevideo, and the 1954 Caracas Convention. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. An interagency refugee review commission established in 2003 has granted refugee status in 9 of the 10 cases it has reviewed. The Government granted temporary protection in cases in which an applicant's claims were verified by the UNHCR. The Government continued to cooperate with international organizations to provide temporary residence to human rights advocates who claimed that they were subject to persecution in their home country; if still at risk after 1 year, the person may apply for refugee status.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country is a multiparty democracy with mandatory voting for those 18 years of age or older. The Colorado party, the Blanco party, and the Broad Front coalition are the major political groupings.

On October 31, in free and fair elections, Tabare Vazquez, leader of the EP-FA coalition, won a 5-year presidential term with an absolute majority in first-round balloting. The EP-FA won 16 of 30 seats in the Senate and 52 of 99 seats in the Senate. President-elect Vazquez was scheduled to take office on March 1, 2005. The

election marked an end to the domination of the traditional Blanco and Colorado parties; it was also the first time in 50 years that any party has won an absolute majority in Congress.

Women participated actively in the political process and government, although primarily at lower and middle levels. Three of 30 senators and 11 of 99 deputies were women. None of the 13 cabinet ministers were women; however, President-elect Vazquez nominated 2 women to serve in his cabinet. With the exception of an alternate deputy, there were no Afro-Uruguayans in Congress.

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

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

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution and the law prohibit discrimination based on race, sex, religion, or disability; however, societal discrimination against some groups existed.

Women.—Violence against women continued to be a problem. The nongovernmental organization (NGO) National Follow-Up Commission-Women for Democracy, Equality and Citizenship reported that a woman died every 9 days as a result of rape or domestic violence. The law provides for sentences of 6 months to 2 years in prison for a person found guilty of committing an act of violence or of making continuing threats to cause bodily injury to persons related emotionally or legally to the perpetrator. The state owned telephone company provided a free nationwide hotline answered by trained NGO employees for victims of domestic violence. The Criminal Code covers spousal abuse and spousal rape, although criminal charges rarely were initiated for those crimes.

A government office of assistance for victims of domestic violence trained police on how to resolve complaints of violence against women. A directorate within the Ministry of Interior continued a public awareness campaign about domestic violence and operated community assistance centers where abuse victims received information and referrals to government and private organizations in their area that aid abused women. Both the Ministry of Interior and NGOs operated shelters in which abused women and their families could seek temporary refuge.

The law prohibits sexual harassment in the workplace; however, few such complaints were filed, a circumstance attributed to a lack of understanding by women of their rights.

Women enjoyed equality under the law in the workplace but faced discrimination stemming from traditional attitudes and practices; however, there never have been any cases brought under the law. The workforce exhibited some segregation by gender. Women, who made up almost one-half the workforce, tended to be concentrated in lower-paying jobs. Women's salaries averaged two-thirds those of men, continuing a gradual improvement with respect to pay equity. Approximately 60 percent of the students at the public university were women. Women often pursued professional careers but were underrepresented in traditionally male-dominated professions.

A small institute in the Ministry of Education coordinated government programs for women. There were a number of active women's rights groups, and many of their activities remained centered on follow-up to the platform of action of the 1995 U.N. Conference on Women.

Children.—The Government generally is committed to protecting children's rights and welfare, and it regarded the education and health of children as a top priority. INAU oversees implementation of the Government's programs for children. The Government provided free compulsory kindergarten, primary, and secondary education, and 95 percent of children completed their primary education. Girls and boys were treated equally. Free education was available through the undergraduate level at the national university.

There is no societal pattern of abuse of children. Minors under the age of 18 are not subject to criminal trial but receive special treatment with special judges and, when sentenced, stay in institutions run by INAU for the period determined by the judge; these institutions emphasized the rehabilitation of minors. INAU maintained an extensive network of programs, including shelters for at-risk children. INAU also operated a confidential hotline for children who were victims of domestic abuse.

Health care is free for all citizens, and the Government, with the help of UNICEF, has undertaken a program to educate parents regarding the need for regular check-ups and immunization.

Although there were few substantiating statistics, polls and arrests of children participating in sexual work indicated that child prostitution existed (*see* Section 5, Trafficking).

Trafficking in Persons.—The law prohibits trafficking in children and adolescents; however, there were some cases involving trafficking of women and child prostitution.

In November, following Senate approval of bills approved by the Chamber of Deputies in 2003, two antitrafficking laws took effect: The law to Combat Commercial and Noncommercial Sexual Exploitation of and Violence Against Children and Adolescents and the law to Combat Child Pornography and Prostitution. These laws criminalize trafficking in persons and provide penalties ranging from 6 months' to 12 years' imprisonment. Prostitution is legal for persons over the age of 18, and there is no law specifically prohibiting participation by minors. Suspected traffickers have been prosecuted on charges of corruption, conspiracy, fraud, and other felonies. The Ministry of the Interior has primary responsibility for investigating trafficking cases.

The country was a source for trafficked persons, and internal trafficking was a problem. There were no reliable estimates on the number of women who worked as prostitutes abroad (generally in Europe and Australia) or on the proportion that were induced into such work by fraud or were subjected to conditions approaching servitude. Some foreign prostitutes entered the country, but irregular border controls limited the collection of such trafficking statistics. Officials believed that trafficking mostly affected women between the ages of 18 and 24. In the only reported case during the year, a man remained in preventive custody awaiting extradition to Italy for luring 13 Uruguayan women to Italy, where they were forced into the sex trade.

According to the Casa de los Ninos, commercial sexual exploitation of children between the ages of 11 and 15 occurred mostly in the states bordering Brazil and Argentina. Authorities believed that this trafficking was specifically for prostitution and pornography. There also was concern about possible child prostitution rings in Montevideo and the resort areas of Punta del Este and Maldonado, where taxi drivers or hotel staff may be involved. There were isolated reports of prostitution by boys. Anecdotal evidence indicated that, in recent years, child prostitution has increased, especially in the interior of the country. Children's rights NGOs and the media received reports that minors resorted to prostitution as a means of survival or to provide assistance to their families in rural areas where unemployment was more than 20 percent.

INAU provided funding for a number of NGOs that have programs to assist homeless children and victims of trafficking. A number of NGOs offered treatment for victims of trafficking and others provided shelter, food, or education.

Early in the year, the Government established the Interdepartmental Commission for the Prevention and Protection of Children Against Sexual Exploitation that cooperated with INAU in creating a national plan of action, which included protection measures for victims and witnesses.

In response to an increase in the incidence of sexual exploitation, the Ministry of the Interior created an office to prevent such crimes. The office conducted research on trafficking in persons and Internet child pornography, assisted in creating a binational antitrafficking commission with Brazil, and investigated two cases involving child prostitution that were prosecuted successfully and resulted in jail sentences. At year's end, it was pursuing a child pornography investigation involving a British citizen's alleged efforts to recruit adolescents for use in pornography.

Persons With Disabilities.—There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services.

A national disabilities commission oversees implementation of a law on the rights of persons with disabilities. Although the law mandates accessibility for persons with disabilities only to new buildings or public services, the Government provided access to a number of existing buildings. The law reserves 4 percent of public sector jobs for persons with disabilities. The country has a generally excellent mental health system and an interest in the rights of persons with mental disabilities.

National/Racial/Ethnic Minorities.—The country's Afro-Uruguayan minority, estimated at nearly 6 percent of the population, continued to face societal discrimination. The latest available information on the extent of discrimination was a 1999 study by the NGO Mundo Afro, which found that the illiteracy rate among black women was twice the national average, that the percentage of black women who had pursued higher education was one-third that of the general population, and that one half of Afro-Uruguayan women worked as household domestics. Afro Uruguayans

were practically unrepresented in the bureaucratic and academic sectors. During the year, Mundo Afro received 20 complaints of discrimination; however, Mundo Afro stated that most instances of discrimination were not reported.

Section 6. Worker Rights

a. The Right of Association.—The Constitution states that laws should promote the organization of trade unions and the creation of arbitration bodies; however, there is almost no legislation specifically entitling workers to form and join unions of their choice. Unions traditionally organized and operated free of government regulation. Civil servants, employees of state-run enterprises, and private enterprise workers may join unions. Unionization was high in the public sector (more than 80 percent) and low in the private sector (under 5 percent). Labor unions were independent of political party control but traditionally associated more closely with the left-of-center Broad Front political coalition.

A Ministry of Labor's Collective Bargaining Division, which investigates antiunion discrimination claims filed by union members, has received no such claims since 2000. Labor unions have complained that some businesses encouraged formation of worker cooperatives, which served to reduce their labor costs.

There are mechanisms for resolving workers' complaints against employers, but unions complained that courts sometimes applied these mechanisms arbitrarily. Unions maintained that organizers were dismissed for fabricated reasons, thus allowing employers to avoid penalties under the law.

There are no laws expressly prohibiting antiunion discrimination, but a 1993 executive decree established fines for employers engaging in antiunion activities. The law does not require employers to reinstate workers fired for union activities and does not require employers to pay an indemnity to such workers. In cases of legal challenges by union members for unlawful firings, courts tended to impose indemnity levels that were higher than those normally paid to dismissed workers.

b. The Right to Organize and Bargain Collectively.—The Constitution provides workers with the right to strike, and workers exercised this right in practice.

The Government may legally compel workers to work during a strike if they perform an essential service, which, if interrupted, "could cause a grave prejudice or risk, provoking suffering to part or all of the society."

Collective bargaining between companies and their unions determines a number of private-sector salaries. The executive branch, acting independently, determines public-sector salaries.

All labor legislation fully covers workers employed in the eight special export zones. There were no unions in these zones because the few workers employed were not in traditionally organizable occupations, that is, one in which a number of workers are employed in a nonprofessional capacity.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (*see* Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment.—The Child Labor Code protects children, and the Ministry of Labor and Social Security is responsible for enforcing this law. Enforcement has proven difficult due to a lack of resources and the fact that the majority of child labor was in the informal sector (which accounted for 40 percent of total employment in the country). Some children worked as street vendors in the expanding informal sector or in agricultural activities, areas that generally were regulated less strictly and where pay was lower than in the formal sector. The law prohibits minors under the age of 15 from working, and this was generally enforced in practice. Minors between the ages of 15 and 18 require government permission to work, and such permission is not granted for dangerous, fatiguing, or night work. All workers under age 18 must undergo a physical examination to identify job-related physical harm. Children between age 15 and 18 may not work more than 6 hours per day within a 36-hour workweek and may not work between 10 p.m. and 6 a.m.

Permission to work is only granted to minors who have completed 9 years of compulsory education or who remain enrolled in school and are working toward completing the period of compulsory education. Controls over salaries and hours for children are stricter than those for adults. Children over the age of 16 may sue in court for payment of wages, and children have the legal right to dispose of their own income. A program by INAU and an NGO to provide food vouchers of $38 (1,000 pesos) per month to parents who take their children off the streets and send them to school continued during the year. This amount approximated what a child might earn working on the street.

e. Acceptable Conditions of Work.—The Ministry of Labor enforces a legislated minimum monthly wage that covers both the public and private sectors. The Ministry adjusts the minimum wage whenever it adjusts public sector wages. The minimum wage, set in September at approximately $49 (1,300 pesos) per month, functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels, and it did not provide a decent standard of living for a worker and family. The vast majority of workers earned more than the minimum wage.

The standard workweek is 48 hours in industry and 44 hours in commerce, with a 36-hour break each week. The law stipulates that industrial workers receive overtime compensation for work in excess of 48 hours and that workers are entitled to 20 days of paid vacation after a year of employment.

The law protects foreign workers and does not discriminate against them. However, to receive official protection, the companies that employ foreign workers must report them as employees. Many workers—both native and foreign—worked off the books and thus forfeited certain legal protections.

The Ministry of Labor and Social Security enforces legislation regulating health and safety conditions in a generally effective manner. However, some of the regulations cover urban industrial workers more adequately than rural and agricultural workers. Workers have the right to remove themselves from what they consider hazardous or dangerous conditions without jeopardy to their employment.

VENEZUELA

Venezuela is a constitutional democracy with a president and unicameral legislature. In addition to the executive, legislative, and judicial branches of government, the Constitution provides for a "Citizen Power" branch—which includes the Ombudsman, the Public Prosecutor, and the Comptroller General—and an "Electoral Power" branch, headed by the National Electoral Council (CNE). In July 2000, voters elected President Hugo Chavez of the Fifth Republic Movement (MVR) in generally free and fair elections. The MVR and the pro-Chavez Movimiento al Socialismo party won a majority in the legislature. In August 2003, the Supreme Court appointed a transitional CNE after the National Assembly failed to do so. According to the Constitution, the civilian judiciary is an independent branch of power; however, it was highly inefficient, corrupt, and subject to political influence from both the executive and legislative branches.

Following a national strike from December 2002 to February 2003, government and opposition representatives signed an agreement in May 2003 that committed both sides to follow the Constitution and laws and acknowledged the constitutional right to hold a presidential recall referendum if legal criteria were met. After the CNE rejected a first group of signatures, opponents of President Chavez gathered sufficient signatures at the end of November 2003 for the presidential recall referendum. In February, the CNE disallowed, on what appeared to be political rather than legal grounds, more than 1 million of the approximately 3.7 million signatures. The opposition subsequently succeeded in ratifying sufficient signatures to activate the recall referendum through the appeals process (reparos), despite government threats of retaliation against signers. On August 15, 5.8 million persons voted to keep Chavez in office, and 3.9 million persons voted to remove him, according to official results. Opponents of the President charged that the process was fraught with irregularities and that electronic manipulation of the vote constituted fraud. Although the Organization of American States (OAS) and Carter Center observers noted that the process "suffered from some irregularities, politicization, and intimidation," they found that the official results were compatible with their own quick count and "reflected the will of the electorate."

The security apparatus consists of civilian and military elements, both accountable to elected authorities. The military played an increasingly larger role in civilian life. Active and retired military officers held high-ranking government positions, and 6 of the 21 cabinet members previously served in the military. The presidents of three major state-owned corporations—Corporacion Venezolana de Guayana, Corporacion Zulia, and PDV Marina—are active duty military officers. The military also administered and executed numerous public service projects. The Ministry of Defense controlled the General Directorate for Military Intelligence (DIM), which is responsible for collecting intelligence related to national security and sovereignty. The National Guard, an active branch of the military, has arrest powers and is largely responsible for maintaining public order. The Ministry of Interior and Jus-

tice controls the Investigative and Criminal Police Corps (CICPC), which conducts most criminal investigations, and the Directorate for Intelligence and Prevention Services (DISIP), which collects intelligence and has a law enforcement role. Mayors and state governors are responsible for local and state police forces and maintain independence from the central Government. The Caracas Metropolitan Police is the main civilian police force in the five municipalities that form the capital. While civilian authorities generally maintained control over security forces, members of the security forces committed numerous and serious human rights abuses during the year.

The population was approximately 25 million. The country is abundant in natural resources and has a mixed agricultural and industrial market-based economy; however, the vast majority of natural resource extraction and production was done by entities owned and operated wholly or in part by the Government. The economy began to recover, with growth of more than 16 percent, following contraction of 8.9 percent in 2002 and 7.6 percent in 2003. Government statistics placed the unemployment rate at 15 percent; however, approximately 50 percent of employed adults worked in the informal sector. The petroleum sector provided the majority of foreign exchange earnings. Despite record oil prices and resulting revenue for the Government, the country faced ongoing deficits and other financial difficulties. Independent economists estimated the Government's deficit for the year was 7.2 percent of gross domestic product.

The Government's human rights record remained poor; despite attempts at improvement in a few areas, its performance deteriorated in other areas, particularly regarding politicization of the judiciary and restrictions on electronic media, and serious problems remained. The police and military committed unlawful killings of criminal suspects. The police reportedly had links to vigilante groups that killed suspected criminals. Investigations into unlawful killings by the security forces of criminal suspects remained extremely slow. Torture and abuse of detainees persisted, and the Government failed to punish police and security officers guilty of abuses. Prison conditions remained harsh; violence and severe overcrowding constituted inhuman and degrading treatment. Arbitrary arrests and detentions continued. Impunity was one of the country's most serious human rights problems. Crimes involving human rights abuses did not proceed to trial due to judicial and administrative delays. Corruption, lengthy pretrial detention, and severe inefficiency in the judicial and law enforcement systems also were problems. A law enacted in May increased the number of Supreme Court judges and the power of the executive branch, the legislature, and the citizen power over the judiciary. Some judges were summarily dismissed or forced to retire. Prosecutors selectively investigated several opposition leaders and brought charges against some.

The Government conducted illegal wiretapping of private citizens and intimidated political opponents. President Chavez, officials in his administration, and members of his political party consistently attacked the independent media, the political opposition, labor unions, the courts, the Church, and human rights groups. Many government supporters interpreted these remarks as tacit approval of violence; they then threatened, intimidated, and physically harmed at least dozens of individuals opposed to Chavez during the year. The International Association of Broadcasters complained that the Government abused its legal power to order that all television and radio stations air material of national interest by requiring the transmission of speeches by President Chavez and other government officials and of other political programming favorable to the Government. A press law enacted in December places restrictions on broadcast content that threaten press freedom. Violence and discrimination against women, abuse of children, discrimination against persons with disabilities, and inadequate protection of the rights of indigenous people remained problems. Trafficking in persons was a problem. The Government's confrontation with the Venezuelan Workers Confederation (CTV) and fired petroleum sector employees continued, and child labor increased.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in the previous year, there were no politically motivated killings by the Government or its agents; however, police, soldiers, and government supporters killed several persons at anti-government demonstrations (*see* Section 2.b.).

According to human rights groups, security forces committed unlawful killings, including summary executions of criminal suspects, used excessive force, and mistreated persons in custody resulting in deaths.

The human rights group Red de Apoyo reported that, on January 10, a group of men, presumably Lara State police officers dressed in black, rounded up nine men

and executed them. On March 10, Juan Carlos Zambrano died after being beaten by soldiers who had detained him on March 4 in Lagunillas, Zulia. Six soldiers were arrested on charges of murder in October and ordered detained pending trial (*see* Section 1.c.). Amnesty International (AI) reported that, in May, Enmary Cava was killed in Cagua, Aragua State, after she and her family had received death threats. The family had called on prosecutors to investigate the death of two brothers and their father at the hands of Aragua State police.

The Venezuelan Program of Action and Education in Human Rights (PROVEA), a human rights nongovernmental organization (NGO), documented 231 unlawful killings from October 2003 through September. PROVEA and the human rights NGO Committee for the Families of the Victims of February 1989 (COFAVIC) identified cases of police death squad activity, linked to police participation in criminal activity. PROVEA noted that such activity decreased in Portuguesa, Yaracuy, and Anzoategui States as a result of media attention and prosecutions.

Prosecutors rarely brought cases against perpetrators of unlawful killings. The police characterized such incidents as "confrontations" (thereby asserting a legal justification for using deadly force) even when eyewitness testimony and evidence strongly indicated otherwise. When prosecutors did investigate, they alleged that unsecured crime scenes, poor investigative techniques, and constantly changing or inexperienced personnel ensured that political and human rights abuse cases were delayed indefinitely or had a pre-ordained result. In addition, the civilian judicial system struggled to implement the Organic Criminal Procedures Code (COPP) and remained highly inefficient and corrupt (*see* Section 1.e.). In the small number of cases in which the courts convicted perpetrators of unlawful and other killings, sentences frequently were light, or the convictions were overturned on appeal. Members of the security forces charged with or convicted of crimes rarely were imprisoned.

In March, Red de Apoyo called on the mayor of Metropolitan Caracas to fire three Metropolitan Police officers found guilty of murder in November 2003, who were still working as police officers; the authorities subsequently opened administrative procedures to fire the officers but had not acted by year's end.

On August 23, a judge approved release on bail for 14 Portuguesa State police officers being held on 68 counts of murder for their alleged participation in the death squad "Exterminio." The men had been in custody for 20 months longer than the legal 24-month pre-trial detention limit, a delay due in part to the reluctance of citizens to serve as lay judges in the case. Prosecutors appealed the decision to release the officers from detention, and the measure was suspended. A trial was pending at year's end.

There were no developments in the investigation of the August 2003 killing of human rights worker Joe Luis Castillo in Machiques, Zulia State. Police suspected two Colombian alleged paramilitaries who were subsequently killed, according to press accounts, and no new developments were expected in the investigation.

Police fired on criminal suspects who disobeyed orders to halt and often used deadly force when confronting suspects or rescuing kidnap victims. In November, for example, the Interior Ministry reported that police killed 135 persons who "resisted authority" that month. Security forces also killed some prisoners; however, the majority of deaths resulted from other causes (*see* Section 1.c.).

In March, prosecutors charged four National Guardsmen with the November 2003 killing of seven prisoners at the Vista Hermosa prison; the guardsmen also allegedly participated in the severe beating of 200 prisoners. While detained, two of the officers were promoted. The case had not gone to trial by year's end.

During demonstrations from February 27 to March 5, unidentified persons killed between 9 (official figure) and 16 (opposition figure) persons and injured 193 throughout the country; on August 16, a group of government supporters fired into a crowd of protesters killing 1 person and injuring 9 others, including a National Assembly deputy (*see* Section 2.b.).

There were two high profile cases of mistreatment of soldiers resulting in death. On March 5, Army Private Roberto Aguilar died of drowning in a cesspool on a military installation in Zulia State. His family claimed he was forced into the cesspool as punishment. After a conflict between military and civilian courts, on August 4, the Supreme Court ruled that a civilian court had jurisdiction. Four soldiers were detained, and the case had not gone to trial by year's end.

On March 30, eight soldiers were burned in a punishment cell in Fuerte Mara in Zulia State; two of the soldiers died of their injuries. Family members charged that one of the soldiers claimed the prisoners were set on fire from outside the cell. In December, prosecutors charged one of the victims with setting the fire, and three doctors with malpractice for the death of one of the soldiers.

On April 2, army Lieutenant Alessandro Sicat was convicted of murder and attempted murder and sentenced to 21 years in prison. Sicat sprayed and ignited paint thinner in the holding cell of three allegedly disobedient soldiers in 2001.

The press reported several cases of lynching and attempted lynching of suspected criminals. A significant portion of the population tacitly supported vigilante activity to control crime.

b. Disappearance.—On October 31, retired Air Force Colonel Silvino Bustillo, one of the leaders of the Plaza Francia military dissidents in 2002, allegedly disappeared after being followed by agents of the DIM. The Government alleged that Colonel Bustillos was in hiding, and had contacted his family, which they denied. As of December, Colonel Bustillo's whereabouts and condition were unknown.

Human rights groups noted that police officers sometimes disposed of the bodies of their victims to avoid investigations. PROVEA recorded 11 reports of disappearances allegedly involving security forces from October 2003 to September.

On May 16, CICPC officers allegedly detained three persons in San Cristobal, Tachira State. The three were never brought before a judge and were presumed to have been killed. Prosecutors began an investigation and ordered the detention of seven CICPC officers, but the officers had not been apprehended by year's end.

From January through August, 88 ranchers were kidnapped, according to the National Cattle Ranchers Federation (Fedenaga). Although rancher kidnappings by Colombian terrorist organizations have been a problem in the border states for decades, Fedenaga attributed most of the increase to domestic criminal gangs, common criminals, and the Bolivarian Liberation Forces (FBL), a relatively new organization allegedly composed of militant supporters of the President. They believed that the FBL targeted ranchers as much for political as for economic reasons. The Government denied any links to the FBL. In September, the head of the CICPC in Tachira State told reporters that some police and National Guard officers collaborated with kidnappers.

On August 9, the Inter-American Court of Human Rights agreed to hear a case against DISIP Commissioner Jose Yanez Casimiro and retired Commissioner General Justiniano Martinez Carreno in the alleged disappearances of Oscar Blanco Romero and Marco Monasterio following the Vargas floods in 1999. In December, Attorney General Isaias Rodriguez announced that the officers had been charged in the disappearance of the two men; a judge released the officers on bail.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and the holding of detainees incommunicado, provides for the prosecution of officials who instigate or tolerate torture, and grants victims the right to medical rehabilitation; however, security forces continued to torture and abuse detainees. Abuse most commonly consisted of beatings during arrest or interrogation, but there also were incidents in which the security forces used near-suffocation and other forms of torture.

PROVEA reported that between October 2003 and September, it received 58 complaints of torture and 491 regarding cruel, inhuman, and degrading treatment. From January to June, Red de Apoyo received 30 complaints from alleged torture victims.

The Government did not ensure independent investigation of complaints of torture. COFAVIC questioned the Attorney General's ability to oversee neutral investigations, because he was an active member of the President's political party and a former vice president in the current Government. Human rights groups also asserted that the Institute of Forensic Medicine, part of the CICPC, was unlikely to be impartial in the examinations of cases that involved torture by CICPC members. Few cases of torture resulted in convictions.

The Human Rights Ombudsman documented 7 complaints of torture and 17 of abuse during the disturbances from February 27 to March 5 (*see* Section 2.b.). Many of the complaints were reported to prosecutors, but no arrests had been made as of year's end. COFAVIC reported nine cases of torture, with an identifiable pattern throughout the country. There were no arrests associated with these cases. For example, on March 1, National Guard troops detained Carlos Eduardo Izcaray, a National Symphony cellist, near a violent street protest. According to AI, Izcaray was beaten repeatedly, given electric shocks, exposed to tear gas in a confined space, had tear gas powder smeared on his face, and was threatened with death.

Reports of beatings and other humiliating treatment of suspects during arrests were common and involved various law enforcement agencies.

In March, the soldiers who arrested Carlos Zambrano and beat him to death (*see* Section 1.a.) also raped his girlfriend.

In November, police arrested three ex-police officers as suspects in the November 18 killing of prosecutor Danilo Anderson. Lawyers for the three accused the police

of torturing the three men after illegally detaining them. All three were arrested days after being reported missing. The torture allegations included the use of electric shock, sensory deprivation, and psychological torture. A judge ordered an investigation into the allegations of torture, but no arrests had been made by year's end.

Prison conditions were harsh due to scarce resources, poorly trained and corrupt prison staff, and violence by guards and inmates. The prison population was at 118 percent of capacity; 22 of the country's 32 prisons were overpopulated, some severely, according to the Ministry of the Interior and Justice. Severe overcrowding in some prisons constituted inhuman and degrading treatment. Prisoners often complained of food and water shortages.

Inmates often had to pay guards and other inmates to obtain necessities such as space in a cell, a bed, and food. Most prisoners obtained food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profited from exploiting and abusing others, especially as convicted murderers and rapists often were held with unsentenced or first-time petty offenders. Trafficking in arms and drugs fueled gang-related violence and extortion. Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings (*see* Sections 1.d. and 1.e.).

The Government failed to provide adequate prison security. The National Guard and the Ministry of Interior and Justice have responsibility for exterior and interior security, respectively. The Venezuelan Prison Observatory (OVP), a prison monitoring NGO, estimated that interior guard force had only one-tenth the required strength. Violence between gangs was common, with shootouts and riots common occurrences. From January through December 31, the OVP recorded 327 deaths and 655 injuries in the prisons. Security forces committed some of the killings in prisons (*see* Section 1.a.), but most inmate deaths resulted from prisoner-on-prisoner violence, riots, fires, and from generally unsanitary and unsafe conditions. Prisoners also died as a consequence of poor diet and inadequate medical care.

On August 5, prisoners in the Barcelona prison staged a "blood strike," inflicting wounds on themselves, to protest prison conditions.

Women inmates were held in separate prisons, where conditions generally were better than those in the men's facilities. Security forces and law enforcement authorities often imprisoned minors together with adults, even though separate facilities existed for juveniles. Because reform institutions were filled to capacity, hundreds of children accused of infractions were confined in juvenile detention centers where they were crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors. Pretrial detainees were not held separately from convicted prisoners.

The Government permitted prison visits by independent human rights observers, and such visits took place during the year.

d. Arbitrary Arrest or Detention.—The Constitution and the law prohibit arbitrary arrest and detention; however, the security forces continued to arrest and detain citizens arbitrarily.

The National Guard, a branch of the military, has arrest powers and is largely responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counter narcotics operations, monitoring borders, and providing law enforcement in remote areas. The Ministry of Interior and Justice controls the CICPC, which conducts most criminal investigations, and the DISIP, which collects intelligence and is responsible for investigating cases of corruption, subversion, and arms trafficking. Mayors and governors oversee local and state police forces. Often, mayors and governors recruited retired National Guard officers for the top leadership of their police. Corruption was a major problem among all police forces, whose members were poorly paid and trained. Impunity for corruption, brutality, and other acts of violence were major problems. Some local police forces offered human rights training for their personnel.

The COPP states that a person accused of a crime cannot be incarcerated during criminal proceedings unless that person was apprehended in the act of committing a crime or a judge determines that there is a danger that the accused may flee or impede the investigation. All detainees must be taken before a prosecutor within 12 hours and before a judge within 48 hours to determine the legality of the detention. To keep a suspect in pretrial detention, a judge must rule that: A crime meriting a prison sentence of more than 2 years has been committed; there is solid evidence that the suspect is guilty of the crime; and there is a danger of flight or that the detainee might try to obstruct the investigation. A person accused of a crime may not be detained for longer than the possible minimum sentence for that crime, nor for longer than 2 years, except in certain circumstances, as when the defendant is responsible for the delay in the proceedings. Although COPP procedures generally

were followed once suspects entered the justice system, confusion over its implementation remained, and arbitrary detention continued to be common.

There was a bail system, but it was common to hold prisoners without according them access to bail. According to the OVP, there were approximately 18,781 prisoners in December, of whom 8,915 had not been convicted of a crime and were held without bail, and the Ministry of the Interior and Justice reported that 48 percent of all prisoners were in pretrial detention. Trials were delayed due to many factors, including the limited power of judges to compel authorities to transport prisoners to court.

Prisoners often had to bribe police to transport them to court for hearings. Judges, prosecutors, and defense lawyers also were responsible for delays, due to excessive workload, corruption, and attempts to avoid controversial cases. Prisoners had reasonably good access to counsel and family members.

The Human Rights Ombudsman's office reported that, during the disturbances from February 27 to March 5, authorities arrested 513 persons and held 53 persons in pretrial detention for their actions. Arbitrary detentions by the Caracas Metropolitan Police, the DISIP, municipal police forces, the National Guard, and the CICPC continued; however, PROVEA estimated that the number of persons detained in anti-drug sweeps had declined.

The Government used the justice system selectively against the political opposition, including investigations against, and arrests of, opposition leaders on charges of conspiracy and treason.

On May 4, a judge ordered Baruta mayor Henrique Capriles Radonski detained on charges relating to a violent demonstration in front of the Cuban Embassy in 2002, despite the lack of evidence and the fact that Capriles was a public official. On September 6, a judge ordered him released on bail. Human rights groups, the political opposition, and media called Capriles a political prisoner. On October 18, an appeals court dismissed the Capriles case, a decision that the prosecution appealed.

On May 22, a military court ordered the detention of retired Army General Francisco Uson for "defaming" the army, despite the fact that Uson was retired and therefore not subject to military jurisdiction. When asked about the Fuerte Mara case (*see* Section 1.a.) in an interview program, Uson had explained how a flamethrower functions. On October 4, the military court found Uson guilty of insulting the army and sentenced him to 5 years in prison. The defense appealed the decision.

On August 9, in the 2002 case against National Guard General Carlos Alfonzo Martinez, a judge ruled that the general was not guilty of instigating rebellion and abandoning his command but found him guilty of violating a security zone. General Martinez was sentenced to 5 years' probation and was forbidden to contact the media. Prosecutors and defense lawyers appealed the decision, and prosecutors also opened a new investigation against General Martinez for his actions in support of the Plaza Francia military dissidents in 2002. In October, an appeals court overturned General Martinez' conviction and set him free, a decision that the prosecutors appealed.

Prior to the August 15 presidential recall referendum, Carlos Melo, an opposition leader, was detained on charges of weapons possession, and was held until an appeals court ordered him released a few weeks later. Images captured by a video monitor at the time of Melo's detention supported his contention that the charges were fabricated.

In March, three judges were fired without cause, immediately after releasing protesters arrested in the February-March disturbances (*see* Section 1.e.). In May, one of the tenured judges who ruled to free Carlos Melo was suspended indefinitely, while the tenured judge who wrote the decisions to release Capriles and General Alfonzo Martinez was suspended in December; in both cases, the alleged reasons for the suspensions were minor infractions of judicial rules.

e. Denial of Fair Public Trial.—The civilian judiciary is an independent branch of power according to the Constitution; however, it was subject to political influence, highly inefficient, and sometimes corrupt.

The judicial sector consists of the Supreme Court, the Attorney General's office, and the Ministry Interior and Justice. The Supreme Court is the country's highest court and directly administers the lower courts. It is divided into six chambers: Constitutional, criminal, social, administrative, electoral, and civil. The Supreme Court administers the lower courts through the Executive Directorate of the Magistracy (DEM). The competitive exams to select permanent judges remained suspended, and only provisional and temporary judges, who constituted 80 percent of all working judges, were hired. The Supreme Court's Judicial Committee may hire and fire temporary judges without cause and did so, without explanation. Provisional judges le-

gally have the same rights as permanent judges; however, in March, the Judicial Committee fired without cause a temporary judge who had been working for 3 years and at least two provisional judges (*see* Section 1.d.). Human Rights Watch (HRW) raised the problem that this situation represents for judicial independence, as did leaders of the judicial system.

On May 18, the National Assembly passed the Organic Law of the Supreme Court, which increased the number of Supreme Court judges from 20 to 32 and allowed them to be appointed with a simple, rather than a two-thirds, majority vote of the National Assembly. The law also permits the Moral Council (Attorney General, Human Rights Ombudsman, and Comptroller General) to suspend judges and allows the National Assembly to revoke the appointment of Supreme Court judges by a simple majority vote, even if they were appointed by a two-thirds majority. On June 15, using this authority, the legislature annulled the appointment of the Court's vice president. HRW noted that the law threatens the independence of the judiciary by subjecting it to political control.

Control judges oversee the protection of the rights of suspects and hear prosecution and defense motions prior to criminal cases going to trial judges. Executive judges oversee the application of sentences. Appeals courts, consisting of three-judge panels, review lower court decisions. The Attorney General oversees the prosecutors who investigate crimes and bring charges against criminal suspects.

Corruption was widespread, and judges also were susceptible to political pressure. Following the February/March protests, several provisional judges who freed protesters were fired. Human rights groups and judicial observers believed that they were fired for their refusal to detain protesters. In September, police detained provisional control judge Juan Ramon Leon Villanueva for soliciting a bribe from the head of the CICPC. Leon was the most recent judge to confirm the detention of Baruta mayor Capriles, prior to his release (*see* Section 1.d.). Leon accused other judges of setting him up. Following the killing of prosecutor Danilo Anderson on November 18, prosecutors investigated allegations that Anderson may have been involved in extorting money from persons in return for not pursuing investigations against them. The investigation was ongoing at year's end.

The COPP provides for the right to a fair trial and considers the accused innocent until proven guilty. The COPP also provides for open, public trials with oral proceedings. Suspects have the right to plead guilty without trial and make reparation agreements. Trial delays were common. A professional judge and two lay judges try serious cases. A single judge may hear serious cases, if the defendant or victim so requests and the judge agrees, or if attempts to appoint lay judges have failed. Difficulty in finding persons willing or able to serve as lay judges frequently caused delays. Usually, single judges try minor cases. Defendants and complainants have the right of appeal.

The law provides for public defenders for those unable to afford an attorney; however, there were not enough public defenders. According to the DEM, as of September 2003, there were 619 public defense attorneys for the entire country, of whom 188 handled juvenile cases exclusively.

Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings. Those who were unable to pay often were forced to forgo their hearings (*see* Section 1.c.).

On July 19, the Supreme Court president swore in the members of the First and Second Courts for contentious administrative matters. The Committee of Judicial Restructuring disbanded the First Court in 2003 following a series of decisions unfavorable to the Government. Citing reasons of workload, the DEM then created two courts.

The military created executive courts, as part of the restructuring the military justice system, mirroring the civilian courts. The Constitution establishes that trials for military personnel charged with human rights abuses would be held in civilian rather than military courts. However, the provision does not apply to cases that predate the 1999 Constitution.

On April 2, army Lieutenant Alessandro Sicat was convicted of murder and attempted murder and sentenced to 21 years in prison (*see* Section 1.a.).

man rights NGOs continued to express concern that the Supreme Court's selection of military judges from a list of candidates provided by the Minister of Defense linked the careers of military judges to the high command, making them more responsive to the views of their military leaders and influencing them to act slowly in cases in which the military is implicated. In May, without due administrative process, five military judges were fired for incompetence, although they had between 15 and 19 years' experience. Four of the judges were handling politically sensitive cases at the time.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions; however, the security forces continued to infringe on citizens' privacy rights by conducting searches of homes without warrants, such as during anticrime sweeps in poor neighborhoods. There were reports of illegal wiretapping and invasion of privacy by the security forces.

Throughout the country, witnesses to abuses by security forces reported instances in which their family members later were harassed, threatened, or killed (*see* Section 1.a.). There were also reports that the family members of persons, including military personnel, who signed the petitions for a recall referendum were threatened with loss of jobs and benefits.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, persons associated with the Government provoked, threatened, physically harmed, or encouraged others to attack private media owners, their installations, and journalists. The Government did not restrict academic freedom.

International organizations such as the Inter American Press Association (IAPA) and domestic journalists charged the Government with encouraging a climate of hostility toward the media. The IAPA called on the Government to end anti-democratic practices. Although assaults against the media declined compared with 2003, journalists attributed this trend to their lack of access to government events and their avoidance of activities in pro-government neighborhoods. Pro-government assailants shot and injured four reporters, and one reporter was killed, allegedly by drug traffickers. National Guard troops shot and injured several reporters with rubber bullets and tear gas cannisters, sometimes fired at close range. Legislative and administrative efforts to limit private media's right to freedom of expression continued, including threats of prosecution and the enactment of a restrictive law to govern media content.

The country has 15 national newspapers (14 based in Caracas, 1 in Maracaibo); 77 regional newspapers; 89 magazines and weekly journals; 34 representatives of foreign media outlets; 47 national and international television and radio news agencies; 344 commercial and over 150 FM and AM community radio stations; and 31 television channels, 23 of which were in the interior. Both government and private media were highly politicized. The majority of the larger newspapers opposed the President. One tabloid in Caracas, whose sole source of advertisement appeared to be the Government, sided fully with the Government.

Print and electronic media were independent, and many criticized the Government, although they felt threatened by the Government and pro-government sympathizers. In 2003, the OAS's Inter-American Commission on Human Rights (IACHR) Special Reporter on Press Freedom noted that reprisals and threats of violence restricted freedom of expression in practice. During the year, the IACHR granted "precautionary" protective measures to petitioners in 12 cases and granted "provisional" protective measures in another 4 cases. The Supreme Court ruled in 2002 that such international orders were not binding in the country, and media owners and journalists complained that they were not carried out in good faith by the Government. President Chavez repeatedly singled out media owners and editors, charging that the media provoked political unrest. The National Press Union accused the Government of punishing or firing state press employees for political reasons, particularly for signing the petition for the August 15 referendum. The country remained on the International Press Institute's watch list of countries with a growing tendency toward suppression or restriction of press freedom.

Journalists lodged 30 complaints of harassment during the year. Supporters of the Government committed most of the incidents against the private media; however, opposition supporters committed a few acts against state-owned or community media. The National Guard, the DIM, the DISIP, and some local police forces also harassed journalists. Government sympathizers also harassed, vandalized property and equipment, and threatened the private media.

On September 1, unidentified assailants killed radio personality, opinion columnist, and activist Mauro Marcano Ramos of the State of Monagas. Ramos was known as a harsh critic of drug traffickers. In February and March, National Guard and other unidentified persons shot and injured several journalists covering protests in Caracas.

The National Union of Press Workers reported 35 cases of assaults on journalists in the first 8 months of the year. The Committee to Protect Journalists investigated and verified 28 of those cases.

Pro-government and state-owned media reported four assaults, one case of vandalism, and three cases of harassment. On March 2, for example, opposition sup-

porters vandalized the offices of VTV. Outside the capital, opposition demonstrators surrounded, threatened, and beat two operators of a community radio station. The IACHR later granted the couple precautionary measures.

The Government had two national television stations, a national radio network, and a newswire service whose directors were named by the President. The President had a weekly show on television and radio and frequently demanded access to major media outlets. Independent media observers criticized the state media for extreme pro-government politicization. Most community media—radio and television stations with different frequency licensing requirements and advertising regulations—were pro-government in editorial policy.

The 2002 Organic Telecommunications Law establishes that the President can suspend telecommunications broadcasts. The President referred to this law repeatedly and threatened to revoke commercial broadcast licenses or not convert pre-2000 licenses to new ones. Media professionals complained that investigations of television and radio stations by state broadcast regulation agency CONATEL were politically motivated.

On August 11, government sympathizers attacked a crew from news channel Globovision in front of the vice presidency in sight of both the building's staff and nearby National Guard troops. The National Guard troops made no effort to intervene. The attackers stole one of the station's radios and used the stolen radio to disrupt the station's ability to communicate with its crews. National Guard troops prevented a crew from changing the radio frequency and detained crew members at the site of the tower for 2 days, during which they were not allowed to receive any food or supplies. On August 15, the day of the presidential recall referendum, CONATEL workers made surprise inspections of the facilities of several private television stations.

Media analysts, journalists, and other observers alleged that the Government used criminal defamation and libel laws to intimidate or harass the media.

On December 7, the Government enacted the Law of Social Responsibility in Radio and Television, which restricts certain content, such as sex and violence, to specific hours of the day and requires disclosure of sources of information. The law also requires private radio and television stations to show a set amount of domestically and independently produced programming. The law makes CONATEL the arbiter of compliance with the law. The IAPA criticized the law as a "clear interference in news media content and a restriction of the work of journalists to report and provide opinion." HRW said that the law "severely threatens press freedom." The IACHR also expressed concern over enactment of the law, noting that it places conditions on information carried by news broadcasts, employs vague terminology, provides for "potentially excessive penalties," and places broad restrictions on the content of programs that could have the effect of intimidating the media.

The Government influenced the media through licensing requirements for journalists, broadcast licensing concessions for television and radio stations, and lucrative public sector advertising. In July, the Supreme Court reaffirmed the law that requires practicing journalists to have journalism degrees and be members of the National College of Journalists and prescribes 3- to 6-month jail terms for those who practice journalism illegally. These requirements are waived for foreigners and for opinion columnists.

Some commercial radio stations complained that broadcasting frequencies for community radios were not allocated in accordance with broadcast regulations. According to the National Venezuelan Radio Broadcasting Chamber, most of these community radio stations neither received broadcasting licenses nor followed regulations and interfered with the broadcasts of licensed stations. The Government, not the communities, reportedly funded the community stations, whose broadcasting was pro-government and anti-opposition.

The law permits the Government to order national broadcasts (cadenas) requiring all broadcast media to pre-empt scheduled programming and transmit the Government's message in its entirety. Domestic and international observers criticized the Government for abusing this legal provision. The International Association of Broadcasters stated that it considered the Government's "unlimited abuse of official 'cadenas' on radio and television" a violation of Article 13 of the American Convention on Human Rights and "one of several direct or indirect means the Government uses to intimidate the communications media and society in general." According to private media sources, through December, there had been 282 hours of cadenas.

The Government denied private media equal access to many official events, and, in cases when private media had access to government facilities, they often did not have access to officials and information. For example, only the government radio and television stations were authorized to have reporters at the presidential palace.

State-controlled television and radio stations and many foreign news reporters continued to have full access to official events.

There were recurrent, violent pro-government demonstrations in front of the studios of RCTV. On June 3, a group of men surrounded the station's headquarters, shot at office windows, vandalized the building, and drove a truck into the lobby of the building and set it afire. On June 8, video captured by the station showed a DISIP truck pulling up to the same building and several men, dressed in civilian clothing, getting out of the truck and further vandalizing the building.

Also on June 3, government sympathizers attacked the offices of the dailies El Nacional and Asi es la Noticia for 4 hours. Approximately 20 persons threw rocks and bottles, crashed a truck into the building's parking lot, set ablaze a distribution truck, and ransacked the offices of Asi es la Noticia.

Journalists complained that official actors, including the National Guard, DIM, DISIP, and some local and municipal police forces, perpetrated a significant number of violent or threatening incidents against the media. Complaints lodged with the National Syndicate of Press Workers listed 7 assaults, 13 cases of harassment, and 2 incidents of vandalism directly involving such official perpetrators. In February, several police officers beat Victor Serra, a Merida reporter. On March 2, three National Guardsmen harassed and attacked Juan Carlos Aguirre and Francisco Marcano, of CMT television, while they covered a protest in Caracas. On May 10, DIM agents stopped a reporter, photographer, and driver at a roadblock; beat and threatened them at gunpoint; and confiscated their cameras, tape recorders, radios, and press credentials.

The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of peaceful assembly and association, and the Government generally respected these rights in practice. Public meetings, including those of all political parties, generally were held unimpeded, although government supporters disrupted numerous marches and rallies. The Government required permits for public marches but did not deny them for political reasons. A 2002 government decree established eight security zones in Caracas and gave the central Government, rather than municipal officials, the authority to permit demonstrations there. The zones included areas around military installations, state television and radio stations, and headquarters of Petroleos de Venezuela, S.A. (PDVSA).

The Constitution prohibits the use of firearms to control peaceful demonstrations. Supporters and opponents of the Government repeatedly demonstrated in the capital and other cities during the year, and several demonstrations resulted in injuries or loss of life. The authorities used firearms (including military weapons), tear gas, and billy clubs against demonstrators, and occasionally demonstrators fought back with clubs and rocks.

On February 27, National Guard troops confronted a peaceful opposition march using tear gas and rubber bullets. The Government had changed the ending point of the march 24 hours beforehand. The ensuing violent confrontation continued for many hours, with civilian Chavez supporters and police using firearms to support the National Guard. A preschool was evacuated when the children were affected by tear gas. Demonstrations throughout the country, at times violent, followed for the next 7 days. According to the Human Rights Ombudsman, 9 persons were killed, 193 injured, and 513 detained. Human rights organizations and the political opposition claimed 16 persons were killed. Among those killed was Evangelina Coromoto Carrizo Leal, a local leader of Democratic Action, who was shot to death during a demonstration in Machiques, Tachira State on March 4. One National Guard officer was arrested, but was confined to his base, rather than detained. In November, a judge ordered the case to go forward. Many of those detained, and human rights organizations accused the police and National Guard of excessive use of force, torture, and abuse, and the Human Rights Ombudsman documented 7 cases of torture and 17 cases of abuse (*see* Section 1.c.).

On August 16, some 50 persons demonstrated at Caracas' Plaza Francia against alleged fraud in the August 15 referendum. A group of government supporters arrived, and after a verbal confrontation, began shooting. One demonstrator was killed, and nine injured. Police arrested three of the gunmen after the media showed photos and videotape of them shooting into the crowd. In November, a judge ordered the three to stand trial.

Professional and academic associations generally operated without interference; however, in 2000, the Supreme Court defined which organizations could act in the name of "civil society" to defend collective rights before the courts. The ruling declared that groups belonging to civil society could not receive money from foreign governments or groups influenced by foreign governments, engage in political activ-

ism, or be run by members of the military or religious groups. The Government brought charges of conspiracy against the NGO SUMATE based in part on the fact that the organization received financing from abroad (*see* Section 4).

c. Freedom of Religion.—The Constitution provides for freedom of religion, on the condition that its practice does not violate public morality, decency, or the public order, and the Government generally respected this right in practice.

The Government and the Holy See have signed a concordat that underscores the country's historical ties to the Roman Catholic Church and provides government subsidies to the Church, including to its social programs and schools. Other religious groups are free to establish and run their own schools. While these groups do not receive subsidies from the Government, they may receive funding to repair buildings for religious use.

Religious groups must register with the Ministry of Interior and Justice's Directorate of Justice and Religion to hold legal status as a religious organization and to own property. The requirements for registration are largely administrative; however, some groups complained that the process was slow and inefficient. Foreign missionaries must have a special visa to enter the country. Missionaries generally were not refused entry but faced the general bureaucratic inefficiency of the Government taking months or years to process a request.

Several senior government officials, including the President, personally attacked Catholic Church leaders and made numerous public statements intended to intimidate the Church. In April, President Chavez denounced the country's Catholic Church leadership as "immoral liars."

Statements by senior government officials supporting Iraq's Saddam Hussein and Islamic extremist movements raised tensions and intimidated the country's Jewish community. In April, the office of Vice President Rangel released a press statement referring to the owners of a business involved in a labor dispute as being "of Jewish nationality," although they were citizens of the country. Anti-Semitic leaflets also were available to the public in an office waiting room at the Ministry of Interior and Justice.

On May 27, small explosive devices went off near two Mormon churches. Damages were slight, and there were no injuries. Anti-Mormon propaganda pamphlets were found at each site.

In November, CICPC officers investigating the killing of prosecutor Danilo Anderson searched the Hebrew Center of Caracas, just as a school on the site was opening. Jewish community leaders expressed outrage and indicated doubt regarding the authorities' explanation for the search.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice, although there were numerous reports that persons were denied passports and other official documents by government agencies for having signed the petition for the recall of the President. There were also reports that those whose identification numbers appeared on a list of petition signers had to pay exorbitant bribes to receive their documents.

A judge issued an order preventing the departure from the country of a lawyer representing former National Assembly workers in a corruption suit against the former President of the National Assembly.

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

Both the Constitution and the Organic Refugee Law provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution.

In February, the Government began granting refugee status to a small number of applicants. As of December, 3,800 persons had applied for refugee status to the National Refugee Commission (NRC), which was constituted in August 2003. The NRC approved 207 persons and denied 200 persons. The U.N. High Commissioner for Refugees (UNHCR) worked with the NCR to investigate cases to speed the Commission's work.

Persons who applied formally for refugee status received a 90-day renewable identification card allowing them to work, attend public school, or receive public health services. As of September 13, approximately 300,000 Colombians along the border were naturalized or granted residency through a government campaign that began in February. There were no statistics on how many of those naturalized or given residency were refugees, because it was common for Colombians fleeing across the

boarder to blend into local communities where they had familial or ethnic ties rather than apply for formal refugee status. The NCR and UNHCR assumed that many Colombians chose to be naturalized rather than apply for refugee status because the process was quicker, required minimal documentation, and offered greater protection under the law.

Few undocumented aliens found at security checkpoints along the border were deported unless an investigation revealed a criminal background. In late May, some 300 indigenous Wayuu fled into the country from Colombia and received temporary protective status.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections held on the basis of universal suffrage. The Constitution provides for the direct election of the President and unicameral National Assembly, as well as of state governors, state legislative councils, and local governments. The Constitution also permits citizens to request recall referenda after the mid-point of the term of any elected official. Political parties organize and their candidates are allowed to run for office freely and to seek the support of voters. The President has extensive powers, and the legislature appoints the members of the Supreme Court and the Citizen Power Branch consisting of the Ombudsman, Public Prosecutor, and Comptroller General. In August 2003, after the National Assembly failed to do so, the Supreme Court appointed a transitional five-member CNE, which included two members and a president generally known to be pro-government.

Opponents of the President have sought to remove him from power since 2002. Following a national strike from December 2002 to February 2003, government and opposition representatives signed an agreement in May 2003 that committed both sides to follow the Constitution and laws and acknowledged the constitutional right to hold a recall referendum if legal criteria were met. At the end of November 2003, opponents of President Chavez gathered sufficient signatures for the recall referendum. Opposition and pro-government parties also collected signatures to recall 70 National Assembly deputies. In February, the CNE disallowed more than 1 million of the approximately 3.7 million signatures collected for a presidential recall, on what appeared to be political rather than legal grounds. The opposition subsequently obtained sufficient signatures to activate the presidential recall referendum through the appeals process (reparos) in which nearly 1.2 million signers were asked to appear again to confirm their signatures.

The Carter Center found that signature collections during the reparo period were conducted in "an atmosphere mostly free of violence—and with mostly clear and transparent procedures"; however, MVR Deputy Luis Tascon placed the names and national identification numbers of all those persons who had signed the petitions on his webpage. The information was used to discriminate against those who had signed, some of whom lost their government jobs, and many more of whom were denied government services, such as passports and identity cards. There were numerous reports that persons were intimidated by government officials not to ratify their signatures or to withdraw them, threatening loss of jobs, scholarships, pensions, and even denial of medical treatment.

Following the CNE's June 3 decision to allow the referendum, the Government engaged in a massive naturalization and identification effort that took place in a few months. The Government claimed that the intention was to redress years of unjustified delays in granting citizenship and identity documents to poor citizens. CNE employees whose loyalty to the Government was unclear were reportedly not allowed to work in the units responsible for changes in the registry. Opposition supporters were denied any opportunity to observe the process, and the electoral registry grew by more than 1.4 million. Many of these voters had no addresses. Additional unexplained changes in voter addresses occurred just before the referendum, making it impossible for some persons to vote.

On August 15, the country held its first-ever referendum to recall a president. The OAS found that irregularities and pro-government bias marked the process leading up to the vote. Because of delays reportedly related to the implementation of an untried electronic voting and fingerprint system, the CNE allowed the polls to stay open an extra 8 hours. On August 16, some 3 hours after the polls closed, the CNE announced that President Chavez had won the vote. International observers declared that the CNE results were compatible with their findings. Chavez opponents challenged the CNE results, alleging irregularities, including that the vote count had been manipulated electronically and that the Government had illegally registered more than 1 million new voters. There were widespread media reports of in-

timidation, forced retractions, and threats of government retaliation against those who signed the petition or intended to vote to recall the President. Neither the CNE nor the Supreme Court found merit in the opposition's challenges, the Carter Center concluded that the automated machines worked well, and the CNE announced that the Government had received 59 percent of the nearly 10 million votes recorded. The OAS "found no element of fraud in the process," although the Carter Center observers noted that the process "suffered from some irregularities, politicization, and intimidation." The OAS and the Carter Center stated that the official results were compatible with their own quick count and "reflected the will of the electorate," and the OAS Permanent Council passed a resolution that acknowledged the referendum results.

There was a popular perception of widespread corruption among all levels of the Government. The Comptroller General's office was largely inactive, except to accuse the Government's opponents of corruption. Journalists reported several cases of apparent corruption implicating high-level government officials, but none were investigated. The National Office of Identification and Immigration, the agency responsible for issuing identity cards and passports, was corrupt, a fact openly acknowledged by officials.

The Constitution provides for citizens' access to government information and forbids censoring. Human rights groups reported that the Government routinely ignored this requirement, and did not make information available.

On September 24, in response to a lawsuit by the NGO PROVEA, the Human Rights Ombudsman's office defended its right to refuse to release information on human rights abuses on the grounds that it was protecting the privacy rights of victims and that it had no legal responsibility to give information to PROVEA.

Women and minorities participated fully in government and politics. The National Assembly's Family, Women, and Youth Committee promoted political opportunities for women. In the 2000 elections, women won 20 seats in the 165-seat Assembly. There were 3 women in the 21-member cabinet and 8 women among the 32 Supreme Court justices.

Indigenous people traditionally have not been integrated fully into the political system due to low voter turnout, geographic isolation, and limited economic and educational opportunities. The Constitution reserves three seats in the National Assembly for indigenous people, and these seats were filled in the 2000 election. There were no indigenous members in the cabinet. One of the vice presidents of the National Assembly was an indigenous person.

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

A wide variety of independent domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were occasionally responsive to their views. However, during the year, NGOs complained that a 2000 Supreme Court ruling that restricts the rights of NGOs that receive funding from foreign sources was being used to prosecute some NGOs (*see* Section 2.b.).

On February 15, President Chavez accused the electoral NGO SUMATE of treason for accepting funding from a foreign source. Prosecutors subsequently began an investigation of four principal members of the NGO and, in August, charged SUMATE with conspiracy to destroy the country's republican form of government. Following a Supreme Court ruling that the prosecution had violated procedures, the case was suspended pending the gathering of testimony from overseas. Prosecutors also opened an investigation of the leader of the education reform NGO Assembly of Educators for receiving money from a foreign source.

President Chavez and NGOs have not met to discuss human rights problems since 1999. However, NGOs developed relationships with specific government bodies such as the Ministry of Education, the Ministry of Foreign Affairs, and the National Assembly. The CNE designated the nonpartisan NGO Electoral Eye as the only national observation group for the August 15 referendum.

Several human rights NGOs received threats and intimidation by government representatives and supporters. Throughout the year, COFAVIC received e-mail and telephone threats from persons who identified themselves as Chavez supporters. The Metropolitan Police provided bodyguards for the COFAVIC director and protection in and around COFAVIC's office, in fulfillment by local authorities of an IACHR protective order. In February, the Government complied with a December 2003 IACHR order to pay $1.56 million (2,496 million bolivars) to compensate relatives of the victims of the Caracazo riots and killings of 1989.

In June, police harassed the leader of a local human rights NGO on two occasions, and presumed government supporters spread threatening material near his home.

Police stated that they suspected Colombian paramilitaries killed human rights activist Joe Luis Castillo in 2003 (*see* Section 1.a.).

In June, HRW criticized the new Organic Law of the Supreme Court and the politicization of the justice system. The Government responded with a personal attack on the HRW Executive Director, but did not address the substance of HRW's concerns (*see* Section 1.e.).

PROVEA reported that, in December, the president of Corpozulia (a government-owned and controlled regional development corporation in the State of Zulia) and a Ministry of Energy and Mines official accused an environmental activist of being an agent of a foreign government and a terrorist. The activist was protesting potentially environmentally destructive coal mining operations.

The Ombudsman is responsible for ensuring that citizens' rights are protected in a conflict with the state; however, human rights NGOs claimed that the Ombudsman's office acted on only a small number of cases presented to it. COFAVIC claimed that the Ombudsman and the Attorney General's office were not independent of the Executive Branch and therefore were unable to carry out effective investigations. During the year, the Ombudsman's office repeatedly defended the Government when accusations of human rights violations were made against it. In February and March, while recognizing the excesses of the security forces, the Ombudsman's office justified the repression against demonstrators by stating that protesters violated citizens' rights to work, travel, and education. The Ombudsman's office played no role in protesting the CNE's lack of openness and partisan decisions in the run-up to the presidential recall referendum.

The National Assembly's Sub-Commission on Human Rights played an insignificant role in the national debate on human rights and released no public reports.

Section 5. Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination on the basis of politics, age, race, sex, creed, or any other condition, and the law prohibits discrimination based on ethnic origin, sex, or disability; however, the Government did not protect women adequately against societal and domestic violence and did not ensure persons with disabilities access to jobs and public services, nor did it safeguard adequately the rights of indigenous people during the year.

Women.—Violence against women continued to be a problem, and women faced substantial institutional and societal prejudice with respect to rape and domestic violence. Domestic violence and rape often were not reported to the police. According to the Center for Women's Studies at the Central University of Venezuela (CEM), there were 900 reported rape cases as of June, compared with 2,100 such cases throughout 2003. There were 8,000 cases of reported domestic violence from January 2003 to June 2004. Police generally were reluctant to intervene to prevent domestic violence, and the courts rarely prosecuted those accused of such abuse. The law requires police to report domestic violence and obligates hospital personnel to notify the authorities when they admit patients who are victims of domestic abuse cases. Women generally were unaware of legal remedies and had little access to them. Few police officers were trained to assist rape victims. Only 1,500 of the 11,000 women who reported rape or abuse in 2003 and the first half of the year filed formal charges. In August, Linda Loaiza, the victim of brutal mistreatment and torture, staged a 6-day hunger strike to protest that her alleged aggressor had not been brought to trial in 2 years and thus could be released.

Rape was difficult to prove largely because a medical examination was required within 48 hours of the crime. The Penal Code also provides that an adult man guilty of raping an adult woman with whom he is acquainted can avoid punishment if, before sentencing, he marries the victim. If the rape victim is a prostitute, the rapist must serve only one-fifth of the sentence if convicted, a rule that applies to any crime committed against a prostitute. Prostitution is not illegal.

Sexual harassment in the workplace was a common problem but is not a criminal offense.

Women accounted for approximately half the student body of most universities and worked in many professions, including medicine and law. They were underrepresented in leadership positions and, on average, earned 30 percent less than men. Women attended military academies and served as officers in the armed forces.

Women and men are legally equal in marriage. The Constitution provides for sexual equality in exercising the right to work. The Labor Code specifies that employers must not discriminate against women with regard to pay or working conditions, must not fire them during pregnancy or for 1 year after giving birth, must grant them unpaid leave and benefits for 6 weeks before the birth of a child and 12 weeks after, and must provide them with 10 weeks of unpaid leave if they legally adopt

children under 3 years of age. According to the Ministry of Labor and the CTV, these regulations were enforced in the formal sector.

The National Institute for Women, a government agency, had two programs to assist women in need and enhance the economic independence of women. The Women's Bank provided approximately 40,000 women with business and empowerment training and small-scale financing for micro-enterprises managed by women. During the year, the Women's Shelters Program opened its first shelter to receive, care for, and rehabilitate women in distress.

There were at least 10 NGOs in Caracas concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups were not implemented widely by the police or other concerned government agencies. Political differences created division among women's organizations, decreasing their effectiveness in advancing women's rights.

Children.—The Organic Procedural Law on Adolescents and Children establishes legal protection of children under the age of 18, regardless of nationality; however, the law was not fully implemented. The Constitution provides that the State is to provide free education up to the university-preparatory level, and the law provides for universal, compulsory, and free education; however, an estimated 57 percent of children left school before the ninth grade. The Ministry of Education, Culture, and Sports provided a public school feeding program for some children to promote school access and attendance through the high school level. Primary and secondary education was chronically underfunded.

There were numerous government health care programs provided for boys and girls on the basis of equal access. UNICEF reported that the under-5 mortality rate was 21 per 1,000 and that the Government financed the expanded program of immunization.

Reports of child abuse were rare due to a fear of entanglement with the authorities and societal ingrained attitudes regarding family privacy. According to UNICEF and other NGOs working with children and women, child abuse often included incest. The judicial system, although slow, ensured that in most situations children were removed from abusive households once a case had been reported; however, public facilities for such children were inadequate and had poorly trained staff.

UNICEF and CECODAP estimated that approximately 15,000 children lived on the street. Authorities in Caracas and several other jurisdictions tried to cope with the phenomenon of street children by imposing curfews for unsupervised minors. Reform institutions were filled to capacity, so hundreds of children accused of infractions, such as curfew violations, were confined in inadequate juvenile detention centers (*see* Section 1.c.).

Trafficking in Persons.—The Constitution prohibits trafficking in persons, although there is no implementing law specifically for prosecution of all forms of trafficking in persons; however, there were reports that the country was a source, destination, and transit country for trafficked men, women, and children.

Trafficking may be prosecuted under laws against forced disappearance and kidnapping (punishable by 2 to 6 years imprisonment) and, in the case of children, under the Organic Law to Protect Children and Adolescents (which carries a fine of 1 to 10 months' income for trafficking in children). The Law of Migration and Immigration, published on May 24, makes human smuggling punishable by 4 to 8 years in prison.

In January, the Ministry of Foreign Affairs inaugurated an interdepartmental working group to develop plans to combat trafficking in persons. The working group designed but has yet to implement an informational campaign.

The Government did not arrest or prosecute any individuals for trafficking in persons during the year, and no figures on trafficking were available from either government or NGO sources. CICPC's Interpol Division worked on two human trafficking cases involving seven women trafficked to Mexico and Spain. The two women lured to Mexico for sexual exploitation with false offers of employment were repatriated, but, despite cooperation with Spanish law enforcement, the five women trafficked to Spain had not been repatriated by year's end.

PROVEA received complaints that women were trafficked to Europe for purposes of prostitution. Undocumented or fraudulently documented Ecuadorian and Chinese nationals transited the country and reportedly were forced to work off the cost of their transportation in conditions of servitude. Organized criminal groups, possibly including Colombian drug traffickers, Ecuadorian citizens, and Chinese mafia groups, reportedly were behind some of these trafficking activities. The Ombudsman's office continued to investigate whether some of the children separated from their parents in the 1999 flooding in Vargas State may have been trafficked.

An underdeveloped legal framework, corruption among immigration authorities, and the ease with which fraudulent passports, identity cards, and birth certificates could be obtained created favorable conditions for trafficking.

There were small specially trained CICPC sections devoted to prostitution and the protection of women.

Government efforts to prevent trafficking are the responsibility of the Public Prosecutor's Family Protection Directorate and the National Institutes for Women and Minors. NGOs such as CECODAP and the Coalition Against Trafficking in Women also were involved in activities to combat trafficking; however, no details on their work were available.

Persons With Disabilities.—According to local advocates, persons with disabilities encountered discrimination in many sectors, including education, health care, and employment. Persons with disabilities had minimal access to public transportation, and ramps were practically nonexistent, even in government buildings. The law requires that all newly constructed or renovated public parks and buildings provide access and prohibits discrimination in employment practices and in the provision of public services; however, the Government had not made a significant effort to implement the law, inform the public of it, or to change societal prejudice against persons with disabilities.

There were no reports of discrimination against persons with mental disabilities.

Indigenous People.—Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population suffered from inattention to and violation of their rights. There were approximately 316,000 indigenous people in 27 ethnic groups, many of whom were isolated from modern civilization and lacked access to basic health and educational facilities. High rates of cholera, hepatitis B, malaria, and other diseases plagued their communities. The Government included indigenous people in its literacy campaigns, in some cases, teaching them to read and write in their own languages as well as in Spanish.

The Constitution creates three seats in the National Assembly for indigenous deputies and also provides for "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom took account of the interests of indigenous people when making decisions affecting their lands, cultures, traditions, or the allocation of natural resources. Few indigenous people held title to their land, and many did not want to do so because most indigenous groups rejected the concept of individual property. Instead, they called on the Government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

There were no developments in the May 2003 case of the Yaruro indigenous group in Apure State who complained to the human rights group PROVEA that ranchers and others had invaded their lands, adversely impacting the area's natural resources on which the indigenous community depended. The Yaruro had also demanded compliance with Articles 120 and 129 of the Constitution requiring that any exploitation of natural resources within an indigenous group's territory only be undertaken after consultation with the effected group.

Section 6. Worker Rights

a. The Right of Association.—Both the Constitution and the Labor Code recognize and encourage the right of workers to organize; however, the Government continued to violate the right of association. According to the Constitution, all workers, without prejudice or need of previous authorization, have the right to form and join unions of their choice. The Labor Code extends this right to all private and public sector employees, except members of the armed forces. Approximately 10 to 12 percent of the 12-million-member national labor force was unionized.

The Constitution provides that labor organizations are not subject to intervention, suspension, or administrative dissolution, and workers are protected against any discrimination or measure contrary to this right. Labor organizers and leaders may not be removed from their positions during the period of time or under the conditions in which they exercise their leadership functions. The CNE has the authority to administer the internal elections of labor confederations, which contravenes International Labor Organization (ILO) Conventions 87 and 98. A 2002 law gives the CNE a technical advisory role in elections, which has proven to be the general practice. However, labor groups complained that the CNE is still empowered to certify union election winners, nullify elections, and adjudicate disputes.

The Inter-American Regional Organization of Workers and International Confederation of Free Trade Unions (ICFTU) concluded that the Government seriously violated the right of association. The ILO repeatedly expressed concerns that the Labor Code violates freedom of association by requiring a high number of workers (100

workers) to form workers' trade unions and a high number of employers to form employer trade unions (10 employers). A constitutional requirement for alternation in union leadership leaves vague the right of unions to re-elect their leaders. The ILO noted the Government's intent to reform the Labor Code to address these deficiencies, although the legislation remained pending in the National Assembly.

The Government still refused to recognize the legitimacy of the CTV's elected leadership and refused to appoint the CTV Secretary General as labor's representative at the ILO's annual meetings in 2003 and during the year. The ILO determined that the CTV was the country's most representative labor confederation.

The Labor Code mandates registration of unions with the Ministry of Labor, but it limits the Ministry's discretion by specifying that registration may not be denied if the proper documents (a record of the founding meeting, the statutes, and membership list) are submitted. Nonetheless, the Ministry of Labor continued to deny registration to UNAPETROL, a union composed of oil workers who were later fired for participating in the December 2002–February 2004 national strike (*see* Section 6.b.).

The CTV filed a formal complaint with the ILO that, during the year, 1,200 public sector workers had been fired or forced to retire in retaliation for having signed the petition calling for a recall referendum on President Chavez. The CTV alleged that the total number of public sector workers removed from their positions was more than 5,000 (*see* Section 3).

b. The Right to Organize and Bargain Collectively.—The Constitution provides that all public and private sector workers have the right to voluntary collective bargaining and to arrive at collective bargaining agreements. The Constitution directs the Government to ensure development of collective bargaining and to establish conditions favorable to collective relationships and the resolution of labor conflicts. The Labor Code stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO continued to object to this provision and requested that the Government amend it so that "in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement on behalf of their members."

The Government continued to show preference in collective bargaining agreements toward sympathetic unions and fostered the creation of parallel unions. CTV leaders claimed that the Ministry of Labor routinely rejected collective bargaining agreements negotiated by CTV affiliates on administrative grounds. CTV leaders further claimed that, in those sectors or firms where contracts were rejected, Ministry of Labor officials facilitated the rapid formation of parallel unions, which legally could force a vote among workers over which union would represent them. The CTV also complained that the Labor Ministry usually designated the parallel union as the one authorized to negotiate the contract.

The Constitution and the Labor Code recognize the right of all public and private sector workers to strike in accordance with conditions established by labor law; however, public servants may strike only if the strike does not cause "irreparable damage to the population or to institutions." Replacement workers are not permitted during legal strikes. The Labor Code allows the President to order public or private sector strikers back to work and to submit their dispute to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population."

The status of approximately 19,000 employees of PDVSA who were fired during and in the aftermath of the December 2002–February 2003 national strike remained legally uncertain. The Government continued to deny the former workers severance and pension benefits as well as access to company housing, schools, and medical clinics. The Minister of Labor rejected a petition from the workers requesting compensation for what they claimed was an illegal firing. Although the ILO concluded in June that the PDVSA workers had engaged in a national strike, the Government permitted only a few employees to return to their jobs. The Government reportedly reinstated or compensated some workers who were on excused leave prior to or during the strike. The Government continued to pursue criminal charges against seven former PDVSA executives for alleged incitement to rebellion and sabotage of the oil industry.

There were unconfirmed reports that CTV President Carlos Ortega, who fled the country in March 2003, had returned but was in hiding. Prosecutors were seeking to try Ortega for civil rebellion and incitement to commit a crime for his participation in the national strike. The ILO recommended the Government lift the arrest orders against the strike leaders.

There were brief strikes throughout the year, including one in April-May in an important steel complex in Bolivar State.

Labor law and practice are the same in the sole export processing zone of Punto Fijo, Falcon State, as in the rest of the country.

c. Prohibition of Forced or Compulsory Labor.—The Labor Code states that no one may "obligate others to work against their will," and such practices generally were not known to occur; however, there were reports of trafficking in children for employment purposes (*see* Sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law contains provisions to protect children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforced child labor policies effectively in the formal sector of the economy but less so in the informal sector. UNICEF's latest data reported that, as of 2001, 7 percent of children were in the labor market. A 2002 ICFTU report estimated that 1.2 million children were working in such areas as agriculture, domestic service, and street vending and that approximately 300,000 children worked in the formal sector.

The Labor Code allows children between the ages of 12 and 14 to work only if the National Institute for Minors or the Ministry of Labor grants special permission. It states that children between the ages of 14 and 16 may not work without the permission of their legal guardians. Minors may not work in mines or smelting factories; in occupations that risk life or health or could damage intellectual or moral development; or in public spectacles. The Constitution prohibits adolescents from working in jobs that will affect their development (*see* Section 5). The Criminal Code prohibits inducing the prostitution and corruption of minors. Persons convicted of these crimes may be sentenced to imprisonment from 3 to 18 months, and up to 4 years if the minor is younger than 12 years old.

Those under 16 years of age may by law work no more than 6 hours per day or 30 hours per week. Minors under the age of 18 may work only between 6 a.m. and 7 p.m. Children working in the informal sector, mostly as street vendors, generally worked more hours than permitted under the law. According to a 2003 Foundation for Social Action study, 63 percent of child street vendors worked 7 days a week. The Ministry of Education, Culture, and Sports ran educational programs to reincorporate school drop-outs and adults into the educational system; however, there was no independent accounting of the effectiveness of the programs.

e. Acceptable Conditions of Work.—The Constitution provides workers with the right to a salary that is sufficient to allow them to live with dignity, and provides them and their families with the right to basic material, social, and intellectual necessities. The Constitution obliges the State to provide public and private sector workers with an annually adjusted minimum wage, using the cost of the basic basket of necessities as a reference point. Under the Labor Code, minimum wage rates are set by administrative decree, which the legislature may suspend or ratify but may not change. The national minimum wage did not provide a decent standard of living for a worker and family, although the Government in May raised the monthly minimum wage by 30 percent to $167 (321,235 bolivars). Unions noted that a worker's income was often less than the cost of basic monthly food for a family of five, which, in June, was estimated by the Government's Central Office of Statistics and Information to be $168 (322,088 bolivars). The figure did not include other necessities such as medical care, transportation, clothing, and housing. The Ministry of Labor enforced minimum wage rates effectively in the formal sector of the economy, but approximately 50 percent of the population worked in the informal sector where labor laws and protections generally were not enforced.

The Constitution stipulates that the workday may not exceed 8 hours daily or 44 hours weekly and that night work may not exceed 7 hours daily or 35 hours weekly. Managers are prohibited from obligating employees to work additional time, and workers have the right to weekly time away from work and annual paid vacations. Some unions, such as the petroleum workers' union, have negotiated a 40-hour week. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time-and-one-half. The Ministry of Labor effectively enforced these standards in the formal sector.

The Constitution provides for secure, hygienic, and adequate working conditions; however, authorities have not yet promulgated regulations to implement the Health and Safety Law, which was not enforced. The Labor Code states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury.

The Code also requires that workplaces maintain "sufficient protection for health and life against sickness and accidents," and it imposes fines ranging from one-quarter to twice the minimum monthly salary for first infractions. However, in practice, Ministry of Labor inspectors seldom closed unsafe job sites. Under the law, workers

may remove themselves from dangerous workplace situations without jeopardy to continued employment.

APPENDIXES

APPENDIX A

NOTES ON PREPARATION OF THE COUNTRY REPORTS

The annual Country Reports on Human Rights Practices are based on information available from a wide variety of sources, including U.S. and foreign government officials, victims of human rights abuse, academic and congressional studies, and reports from the press, international organizations, and nongovernmental organizations (NGOs) concerned with human rights. We find particularly helpful, and make reference in the reports to the role of NGOs, ranging from groups within a single country to those that concern themselves with human rights worldwide. While much of the information that we use is already public, information on particular abuses frequently cannot be attributed, for obvious reasons, to specific sources.

By law, we must submit the Country Reports to Congress by February 25. To comply with this requirement, we provide guidance to U.S. diplomatic missions in July for submission of draft reports in September and October, which we update at year's end as necessary. Other offices in the Department of State provide contributions, and the Bureau of Democracy, Human Rights, and Labor prepares a final draft. Because of the preparation time required, it is possible that year-end developments may not be reflected fully. We make every effort to include references to major events or significant changes in trends.

We have attempted to make the reports as comprehensive, objective and uniform as possible in both scope and quality of coverage. We have paid particular attention to attaining a high standard of consistency in the reports despite the multiplicity of sources and the obvious problems associated with varying degrees of access to information, structural differences in political and social systems, and differing trends in world opinion regarding human rights practices in specific countries.

Evaluating the credibility of reports of human rights abuses often is difficult. With the exception of some terrorist organizations, most opposition groups and certainly most governments deny that they commit human rights abuses and sometimes go to great lengths to conceal any evidence of such acts. There are often few eyewitnesses to specific abuses, and they frequently are intimidated or otherwise prevented from reporting what they know. On the other hand, individuals and groups opposed to a particular government sometimes have powerful incentives to exaggerate or fabricate abuses, and some governments similarly distort or exaggerate abuses attributed to opposition groups. We have made every effort to identify those groups (for example, government forces or terrorists) that are believed, based on all the evidence available, to have committed human rights abuses. Where credible evidence is lacking, we have tried to indicate why it is not available. Many governments that profess to oppose human rights abuses in fact secretly order or tacitly condone them or simply lack the will or the ability to control those responsible for them. Consequently, in judging a government's policy, the reports look beyond statements of policy or intent and examine what a government has done to prevent human rights abuses, including the extent to which it investigates, brings to trial, and appropriately punishes those who commit such abuses.

To increase uniformity, the introduction of each country's report contains a brief setting that provides the context for reviewing its human rights performance. A description of the political framework and the role of security agencies in human rights is followed by a brief paragraph on the economy. The introduction concludes with an overview of human rights developments during the calendar year that mentions specific areas (for example, torture, freedom of speech and of the press, discrimination) where abuses, problems, and notable improvements occurred.

We have continued the effort from previous years to expand coverage of human rights problems affecting women, children, persons with disabilities, and indigenous people in the reports. The appropriate section of each country report discusses any abuses that are targeted specifically against women (for example, rape or other violence perpetrated by governmental or organized opposition forces, or discriminatory

laws or regulations). In Section 5, we discuss socioeconomic discrimination; discrimination against persons with HIV/AIDS; societal violence against women, children, homosexuals, persons with disabilities, or ethnic minorities; and the efforts, if any, of governments to combat these problems.

The following notes on specific section headings in each country report are not meant to be comprehensive descriptions of each subject but to provide an overview of the key issues covered and to show the overall organization of subjects:

Arbitrary or Unlawful Deprivation of Life.—Includes killings in which there is evidence of government involvement without due process of law or of political motivation by a government or by opposition groups. Also covers extrajudicial killings (for example, the unlawful and deliberate killing of individuals carried out by order of a government or with its complicity), as well as killings committed by police or security forces that resulted in the unintended death of persons without due process of law (for example, mistargeted bombing or shelling or killing of bystanders). In general, excludes combat deaths and killings by common criminals, if the likelihood of political motivation can be ruled out (see also "Internal Conflicts" below). Although mentioned briefly here, deaths in detention due to official negligence are covered in detail in the section on "Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment."

Disappearance.—Covers cases in which political motivation appears likely and in which the victims have not been found or perpetrators have not been identified. Cases eventually classified as political killings in which the bodies of those missing are discovered also are covered in the above section, while those eventually identified as arrest or detention may be covered under "Arbitrary Arrest or Detention."

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Covers torture (an act of intentionally inflicting severe pain, whether physical or mental) and cruel, inhuman, or degrading treatment or punishment, committed by or at the instigation of government forces or opposition groups. Concentrates discussion on actual practices, not on whether they fit any precise definition, and includes use of physical and other force that may fall short of torture but which is cruel, inhuman, or degrading. In some reports, there may be discussion of poor treatment that may not constitute torture or cruel, inhuman, or degrading treatment. Covers prison conditions, including information based on international standards, and deaths in prison due to negligence by government officials.

Arbitrary Arrest or Detention.—Covers cases in which detainees, including political detainees, are held in official custody without being charged or, if charged, are denied a public preliminary judicial hearing within a reasonable period.

Denial of Fair Public Trial.—Describes briefly the court system and evaluates whether there is an independent judiciary and whether trials are both fair and public (failure to hold any trial is noted in the section above). Includes discussion of "political prisoners" (political detainees are covered with arbitrary detention), defined as those convicted and imprisoned essentially for political beliefs or nonviolent acts of dissent or expression, regardless of the actual legal charge. Also includes the systemic failure of a government to enforce court orders with respect to restitution or compensation for the taking of private property under domestic law.

Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Discusses the "passive" right of the individual to noninterference by the State. Includes the right to receive foreign publications, for example, while the right to publish is discussed under "Freedom of Speech and Press." Includes the right to be free from coercive population control measures, including coerced abortion and involuntary sterilization but does not include cultural or traditional practices, such as female genital mutilation, which are addressed in Section 5.

Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.—An optional section for use in describing abuses that occur in countries experiencing significant internal or external armed conflict. Includes indiscriminate, nonselective killings arising from excessive use of force, or by the shelling of villages (deliberate, targeted killing is discussed in the section on "Arbitrary or Unlawful Deprivation of Life"). Also includes abuses against civilian noncombatants. For countries where use of this section would be inappropriate, that is where there is no significant internal or external conflict, lethal use of excessive force by security forces is discussed in the section on "Arbitrary or Unlawful Deprivation of Life"; nonlethal excessive force is discussed in the section on "Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment."

Freedom of Speech and Press.—Evaluates whether these freedoms exist and describes any direct or indirect restrictions. Includes discussion of Internet and academic freedom.

Freedom of Peaceful Assembly and Association.—Evaluates the ability of individuals and groups (including political parties) to exercise these freedoms. Includes the ability of trade associations, professional bodies, and similar groups to maintain relations or affiliate with recognized international bodies in their fields. The right of labor to associate, organize, and bargain collectively is discussed under the section on "Worker Rights" (see Appendix B).

Freedom of Religion.—Discusses whether the Constitution or laws provide for the right of citizens of any religious belief to worship free of government interference and whether the government generally respects that right. Includes the freedom to publish religious documents in foreign languages; addresses the treatment of foreign clergy and whether religious belief or lack thereof affects membership in a ruling party, a career in government, or ability to obtain services and privileges available to other citizens. The annual International Religious Freedom Report supplements the information in this section.

Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Includes discussion of internally displaced persons (IDPs); "refugees" may refer to persons displaced by civil strife or natural disaster as well as persons who are "refugees" within the meaning of the Refugee Act of 1980, that is, persons with a "well-founded fear of persecution" in their country of origin or, if stateless, in their country of habitual residence, on account of race, religion, nationality, membership in a particular social group, or political opinion. Also discusses whether, and under what circumstances, governments exile citizens.

Respect for Political Rights: The Right of Citizens to Change Their Government.—Discusses the extent to which citizens have freedom of political choice and have the legal right and ability in practice to change the laws and officials that govern them. Assesses whether elections are free and fair.

Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights.—Discusses whether the government permits the free functioning of local human rights groups (including the right to investigate and publish their findings on alleged human rights abuses), whether these groups are subject to reprisal by government or other forces, and whether government officials are cooperative and responsive to their views. Also discusses whether the government grants access to and cooperates with outside entities (including foreign human rights organizations, international organizations, and foreign governments) interested in human rights developments in the country. Discusses corruption in the executive or legislative branches of government and whether the public has access in lay and practice to government information.

Discrimination, Societal Abuses, and Trafficking in Persons.—Contains subheadings on Women, Children, Trafficking in Persons, and Persons with Disabilities. As appropriate, also includes subheadings on National/Racial/Ethnic Minorities, Indigenous People, Incitement to Acts of Discrimination, and Other Societal Abuses and Discrimination. Addresses discrimination and abuses not discussed elsewhere in the report, focusing on laws, regulations, or state practices that are inconsistent with equal access to housing, employment, education, health care, or other governmental benefits for members of specific groups. (Abuses by government or opposition forces, such as killing, torture and other violence, or restriction of voting rights or free speech targeted against specific groups would be discussed under the appropriate preceding sections.) Discusses societal violence against women, e.g., "dowry deaths," "honor killings," wife beating, rape, female genital mutilation, and government tolerance of such under the subheading on women. Discusses the extent to which the law provides for, and the government enforces, equality of economic opportunity for women. Discusses violence or other abuse against children under that subheading. Discusses the extent to which persons with disabilities, including persons with mental disabilities, are subject to discrimination in, among other things, employment, education, and the provision of other government services.

The trafficking in persons subheading covers all acts involving the recruitment, harboring, transportation, provision, or obtaining of a person (man, woman, or child) for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Sex trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age. Reporting describes any legal prohibitions against trafficking; the extent to which the government enforces these prohibitions; the extent and nature of trafficking in persons to, from, or within the country, other geographic regions or countries affected by the traffic; the participation, facilitation, involvement or complicity of any government agents in trafficking; and aid or protection available to victims.

Worker Rights.—See Appendix B.

EXPLANATORY NOTES

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

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

Since the Secretary of State designates foreign groups or organizations as Foreign Terrorist Organizations (FTOs) on the FTO list, only those groups on the FTO list dated October 19, 2004 will be described as "terrorists" in the reports.

When describing whether a government provides "protection against refoulement," the reports are referring to the international legal principle that prohibits states from expelling or returning a refugee in any manner whatsoever to the frontiers of territories where his or her life or freedom would be threatened on account of race, religion, nationality, political opinion, or membership in a particular social group.

Subject headings in these reports are used to introduce general topics, and the report text that follows such headings is intended to describe facts generally relevant to those topics and is not intended to reach conclusions of a legal character.

APPENDIX B

REPORTING ON WORKER RIGHTS

The 1984 Generalized System of Preferences Renewal Act requires reporting on worker rights in GSP beneficiary countries. It states that internationally recognized worker rights include: "(a) the right of association; (b) the right to organize and bargain collectively; (c) a prohibition on the use of any form of forced or compulsory labor; (d) a minimum age for the employment of children; and (e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health." All five aspects of worker rights are discussed in each country report under the section heading "Worker Rights." The discussion of worker rights considers not only laws and regulations but also their practical implementation and takes into account the following additional guidelines:

a. The right of association has been defined by the International Labor Organization (ILO) to include the right of workers and employers to establish and join organizations of their own choosing without previous authorization; to draw up their own constitutions and rules, elect their representatives, and formulate their programs; to join in confederations and affiliate with international organizations; and to be protected against dissolution or suspension by administrative authority.

The right of association includes the right of workers to strike. While strikes may be restricted in essential services, the interruption of which would endanger the life, personal safety, or health of a significant portion of the population, and in the public sector, these restrictions must be offset by adequate safeguards for the interests of the workers concerned (for example, mechanisms for mediation and arbitration, due process, and the right to judicial review of legal actions). Reporting on restrictions on the ability of workers to strike generally includes information on any procedures that may exist for safeguarding workers' interests.

b. The right to organize and bargain collectively includes the right of workers to be represented in negotiating the prevention and settlement of disputes with employers, the right to protection against interference, and the right to protection against acts of antiunion discrimination. Governments should promote mechanisms for voluntary negotiations between employers and workers and their organizations. Coverage of the right to organize and bargain collectively includes a review of the extent to which collective bargaining takes place and the extent to which unions, both in law and practice, effectively are protected against anti-union discrimination.

c. Forced or compulsory labor is defined as work or service exacted under the menace of penalty and for which a person has not volunteered. "Work or service" does not apply where obligations are imposed to undergo education or training. "Menace of penalty" includes loss of rights or privileges as well as penal sanctions. The ILO has exempted the following from its definition of forced labor: compulsory military service, normal civic obligations, certain forms of prison labor, emergencies, and minor communal services. Forced labor should not be used as a means of: (1) mobilizing and using labor for purposes of economic development; (2) racial, social, national, or religious discrimination; (3) political coercion or education, or as a punishment for holding or expressing political or ideological views opposed to the established political, social, or economic system; (4) labor discipline; or (5) as a punishment for having participated in strikes. Constitutional provisions concerning the obligation of citizens to work do not violate this right so long as they do not take the form of legal obligations enforced by sanctions and are consistent with the principle of "freely chosen employment."

d. Minimum age for employment of children concerns the effective abolition of child labor by raising the minimum age for employment to a level consistent with the fullest physical and mental development of young people. ILO Convention 182 on the "worst forms of child labor," which had been ratified by 149 countries by the end of the year, identifies anyone under the age of 18 as a child and specifies certain types of employment as "the worst forms of child labor." These worst forms of labor include slavery, debt bondage, forced labor, forced recruitment into armed conflict, child prostitution and pornography, involvement in illicit activity such as drug pro-

duction or trafficking, and "work which, by its nature, or the circumstances in which it is carried out, is likely to harm the health, safety or morals or children." ILO Convention 182 permits the employment of children between the ages of 16 and 18 in what the convention describes as an "unhealthy environment," if adequate protective measures have been taken.

e. Acceptable conditions of work refers to the establishment and maintenance of mechanisms, adapted to national conditions, that provide for minimum working standards, that is: wages that provide a decent living for workers and their families; working hours that do not exceed 48 hours per week, with a full 24-hour rest day; a specified number of annual paid leave days; and minimum conditions for the protection of the safety and health of workers. Differences in the levels of economic development are taken into account in the formulation of internationally recognized labor standards. For example, many ILO standards concerning working conditions permit flexibility in their scope and coverage. They also may permit governments a wide choice in their implementation, including progressive implementation, by enabling them to accept a standard in part or subject to specified exceptions. Governments are expected to take steps over time to achieve the higher levels specified in such standards. However, this flexibility applies only to internationally recognized standards concerning working conditions, not to the basic human rights standards, that is, freedom of association, the right to organize and bargain collectively, the prohibition of forced labor and child labor, and the absence of discrimination in employment.

APPENDIX C—International Human Rights Conventions

[See the footnotes for a key to the International Human Rights Conventions listed here.]

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
Afghanistan	P	—	—	P	—	P	P	P	—	P	P	P	P	P	P	—	—	—	—	—	—	S	P	P	—
Albania*	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Algeria	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P
Andorra	—	—	—	—	—	P	P	—	P	—	—	—	S	S	—	—	—	—	—	—	—	P	S	P	—
Angola	—	P	P	—	P	P	P	—	—	P	—	P	—	P	P	P	P	—	P	P	—	P	—	P	P
Antigua & Barbuda	P	P	P	P	P	P	P	—	—	1	P	P	P	—	—	P	P	—	P	P	P	P	P	P	P
Argentina	—	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Armenia	—	—	—	P	—	P	P	—	P	—	—	—	P	P	P	P	P	—	—	P	P	P	P	P	—
Australia	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	—
Austria	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Azerbaijan	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	—	P	—	—	P	P	P	P
Bahamas	P	P	P	P	P	P	P	—	—	P	P	P	P	—	—	P	P	—	P	P	P	P	—	P	P
Bahrain	P	P	—	P	—	P	P	—	—	—	P	P	P	—	—	—	—	—	—	P	P	P	P	P	P
Bangladesh	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	—	—	—	—	P	P	P	P	P	P
Barbados	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	—	—	P	P	P	P	P	—	P	P
Belarus	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Belgium	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Belize	1	P	P	P	P	P	P	—	—	—	1	P	P	P	S	P	P	—	P	P	P	P	P	P	P
Benin	2	P	P	—	P	P	P	—	—	—	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Bhutan*	—	—	—	—	—	P	P	—	—	—	—	—	S	—	—	—	—	—	—	—	—	P	—	P	—
Bolivia	P	—	P	S	P	P	P	P	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Bosnia & Herz.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Botswana	1	P	P	—	P	P	P	—	—	—	1	P	P	P	—	P	P	—	P	P	P	P	P	P	P
Brazil	P	P	—	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Brunei*	1	—	—	—	—	P	P	—	—	—	1	—	—	—	—	—	—	—	—	P	P	—	—	P	—
Bulgaria	2	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Burkina Faso	—	P	P	P	P	P	P	P	—	—	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P

APPENDIX C—International Human Rights Conventions—Continued

[See the footnotes for a key to the International Human Rights Conventions listed here.]

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
Burma	P	P	P	P	—	P	P	S	—	S	—	—	—	—	—	—	—	—	—	—	—	P	—	P	—
Burundi	—	P	P	P	P	P	P	—	—	P	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Cambodia	—	P	P	P	P	P	P	—	—	S	P	P	P	P	P	P	P	—	P	P	P	P	P	P	—
Cameroon	P	P	P	—	P	P	P	P	—	—	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Canada	P	—	P	P	—	P	P	—	—	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Cape Verde	—	P	P	—	P	P	P	—	—	—	—	P	P	P	P	—	P	—	—	P	P	P	P	P	P
Cen. African Rep.	2	P	P	—	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	—	P	P
Chad	—	P	P	—	P	P	P	—	—	—	—	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Chile	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
China	2	—	—	P	—	P	P	—	—	P	—	—	P	S	P	P	P	—	P	P	P	P	P	P	P
Hong Kong	P	—	—	P	—	—	—	—	—	P	—	—	P	—	—	—	—	—	—	—	—	P	P	P	—
Macau from 12–20–99	—	—	—	P	—	—	—	—	—	—	—	—	P	—	—	—	—	—	—	—	—	—	P	—	—
Macau to 12–19–99	—	—	—	P	—	—	—	P	—	—	P	—	P	P	P	P	P	—	—	—	—	P	P	P	—
(Taiwan only)*	P	—	—	P	—	—	—	—	—	P	P	—	P	S	S	—	—	—	—	—	—	—	—	—	—
Colombia	S	P	P	P	P	P	P	—	—	P	—	P	P	P	P	P	P	P	P	P	P	P	P	P	—
Comoros	—	P	P	—	P	P	P	—	—	—	—	P	S	—	—	—	—	—	—	P	P	P	S	P	P
Congo, Dem. Rep. of	—	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Congo, Republic of	2	P	P	—	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	—	P	P
Cook Islands	—	—	—	—	—	P	P	—	—	—	—	—	—	—	—	—	—	—	—	P	P	—	—	—	—
Costa Rica	—	P	P	P	P	P	P	—	—	P	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Cote D'Ivoire	2	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Croatia	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Cuba	P	P	P	P	P	P	P	P	—	P	P	P	P	—	—	—	—	—	P	P	P	P	P	P	—
Cyprus	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Czech Republic	2	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Denmark	P	P	P	P	P	P	P	S	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P
Djibouti	—	P	P	—	P	P	P	P	—	—	P	P	—	P	P	P	P	—	—	P	P	P	P	P	—

Dominica	P	P	P	—	P	P	P	—	—	1	P	P	—	P	P	P	P	P	P	P	P	P	P	P	P
Dom. Republic	S	P	P	S	P	P	P	—	—	P	P	P	P	P	P	P	P	P	P	P	P	P	S	P	P
East Timor	—	—	—	—	—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Ecuador	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Egypt	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
El Salvador	—	P	—	P	—	P	P	—	—	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Equatorial Guinea	—	P	P	—	P	P	P	—	—	—	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Eritrea	—	P	P	—	P	P	P	—	—	—	—	P	P	P	P	—	—	—	P	—	—	P	—	P	—
Estonia	2	P	P	P	P	P	P	—	P	—	—	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Ethiopia	P	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Fiji	P	P	P	P	P	P	P	—	—	P	P	P	P	—	—	P	P	—	P	—	—	P	—	P	P
Finland	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
France	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Gabon	—	P	P	P	P	P	P	—	—	P	—	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Gambia	1	P	P	P	P	P	P	—	—	—	1	P	P	P	P	P	P	—	P	P	P	P	S	P	P
Georgia	—	P	P	P	P	P	P	—	P	—	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Germany	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Ghana	2	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Greece	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Grenada	1	P	P	1	P	P	P	—	—	1	1	P	S	P	P	—	—	P	—	P	P	P	—	P	P
Guatemala	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Guinea	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Guinea-Bissau	—	P	—	—	P	P	P	—	—	—	—	P	S	S	P	P	P	—	—	P	P	P	S	P	—
Guyana	1	P	P	—	P	P	P	—	—	—	1	P	P	P	P	—	—	—	P	P	P	P	P	P	P
Haiti	2	P	P	P	P	P	P	P	—	P	P	P	P	P	—	P	P	P	—	—	—	P	—	P	—
Holy See	—	—	—	—	—	P	P	—	—	—	—	—	P	—	—	P	P	—	—	P	P	—	P	P	—
Honduras	—	P	P	P	P	P	P	P	—	—	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Hungary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Iceland	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
India	P	P	—	P	—	P	P	P	—	P	P	P	P	P	P	—	—	—	—	—	—	P	S	P	—
Indonesia	—	P	P	—	P	P	P	—	—	P	—	P	P	—	—	—	—	—	P	—	—	P	P	P	P
Iran	S	P	—	P	—	P	P	S	—	—	P	P	P	P	P	P	P	—	—	S	—	—	S	P	P

APPENDIX C—International Human Rights Conventions—Continued

[See the footnotes for a key to the International Human Rights Conventions listed here.]

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
Iraq	P	P	—	P	P	P	P	P	—	—	P	P	P	P	P	—	—	—	P	—	—	P	—	P	P
Ireland	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Israel	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	—	—	P	P	P	—
Italy	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Jamaica	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	P	—	P	P	P	—	P	P
Japan	—	P	P	—	P	P	P	P	—	P	—	—	P	P	P	P	P	—	P	—	—	P	P	P	P
Jordan	P	P	—	P	P	P	P	P	—	P	P	P	P	P	P	—	—	—	P	P	P	P	P	P	P
Kazakhstan	—	P	P	P	P	P	P	—	—	P	—	P	P	—	—	P	P	—	P	P	P	P	P	P	
Kenya	—	P	—	—	P	P	P	—	—	—	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Kiribati*	1	P	P	—	P	P	P	—	—	1	1	P	—	1	1	—	1	—	—	—	—	—	—	P	—
Korea, Dem. Rep. of*	—	—	—	P	—	P	P	—	—	—	—	—	—	P	P	—	—	—	—	P	—	P	—	P	—
Korea, Rep. of	—	—	—	P	—	P	P	P	—	P	—	—	P	P	P	P	P	—	P	P	P	P	P	P	P
Kuwait	P	P	P	P	—	P	P	P	—	—	P	P	P	P	P	—	—	—	P	P	P	P	P	P	P
Kyrgyzstan	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Laos	—	P	—	P	—	P	P	P	—	P	P	—	P	S	S	—	—	—	—	P	P	P	—	P	—
Latvia	2	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	—
Lebanon	2	P	—	P	P	P	P	—	—	P	—	P	P	P	P	—	—	—	—	P	P	P	P	P	P
Lesotho	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Liberia	P	P	P	P	P	P	P	S	—	S	S	P	P	S	S	P	P	—	—	P	P	P	—	P	P
Libya	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	—	—	—	P	P	P	P	P	P	P
Liechtenstein*	—	—	—	P	—	P	P	—	P	—	—	—	P	P	P	P	P	—	—	P	P	P	P	P	—
Lithuania	S	P	P	P	P	P	P	—	P	—	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Luxembourg	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Macedonia	2	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	—	P	P	P	P	P	P	P
Madagascar	P	P	P	—	P	P	P	S	—	P	P	—	P	P	—	—	P	P	P	P	P	P	S	P	P
Malawi	P	P	P	—	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Malaysia	—	P	—	P	P	P	P	—	—	—	P	—	—	—	—	—	—	—	P	—	—	P	—	P	P

Maldives*	—	—	—	P	—	P	P	—	—	—	—	—	P	—	—	—	—	—	—	P	P	P	—	P	—
Mali	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Malta	P	P	P	—	P	P	P	—	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Marshall Islands*	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	P	—
Mauritania	P	P	P	—	P	P	P	P	—	P	P	P	P	—	—	P	P	—	P	P	P	P	—	P	P
Mauritius	P	P	—	—	P	P	P	—	—	P	P	P	P	P	P	—	—	—	P	P	P	P	P	P	P
Mexico	P	P	P	P	—	P	P	P	—	P	P	P	P	P	P	P	P	P	—	P	—	P	P	P	P
Micronesia*	—	—	—	—	—	P	P	—	—	—	—	—	—	—	—	—	—	—	—	P	P	—	—	P	—
Moldova	—	P	P	P	P	P	P	—	P	P	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Monaco*	P	—	—	P	—	P	P	—	—	—	—	—	P	P	P	P	—	—	—	P	P	—	P	P	—
Mongolia	P	—	P	P	P	P	P	—	—	P	P	—	P	P	P	—	—	—	—	P	P	P	P	P	P
Morocco	P	P	—	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	S	S	P	P	P	P
Mozambique	—	—	P	P	P	P	P	—	—	—	—	P	P	—	P	P	—	—	P	P	P	P	P	P	P
Namibia	—	P	P	P	P	P	P	—	—	—	—	P	P	P	P	P	—	—	P	P	P	P	P	P	P
Nauru*	—	—	—	—	—	—	—	—	—	—	—	—	S	S	—	—	—	—	—	—	—	—	S	P	—
Nepal	P	P	—	P	P	P	P	P	—	P	P	—	P	P	P	—	—	—	P	—	—	P	P	P	P
Netherlands	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
New Zealand	P	P	—	P	—	P	P	—	—	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Nicaragua	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	P	P	P	P	P	S	P	P
Niger	P	P	P	—	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Nigeria	P	P	P	—	P	P	P	—	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Niue	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	P	—
Norway	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Oman*	—	P	—	—	—	P	P	—	—	—	—	—	P	—	—	—	—	—	—	P	P	—	—	P	P
Pakistan	P	P	P	P	P	P	P	P	—	P	P	P	P	—	—	—	—	—	—	S	S	P	—	P	P
Palau	—	—	—	—	—	P	P	—	—	—	—	—	—	—	—	—	—	—	—	P	P	—	—	P	—
Panama	S	P	P	P	P	P	P	—	—	—	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Papua New Guinea	P	P	P	P	P	P	P	—	—	P	—	P	P	—	—	P	P	—	P	—	—	P	—	P	P
Paraguay	—	P	P	P	P	P	P	—	—	P	—	P	S	P	P	P	P	P	—	P	P	P	P	P	P
Peru	—	P	P	P	P	P	P	—	—	P	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Philippines	P	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	S	P	P	P	P	P
Poland	2	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P

APPENDIX C—International Human Rights Conventions—Continued

[See the footnotes for a key to the International Human Rights Conventions listed here.]

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
Portugal	2	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Qatar	—	P	—	—	—	P	P	—	—	—	—	—	P	—	—	—	—	—	—	P	—	—	P	P	P
Romania	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Russia	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Rwanda	—	P	P	P	P	P	P	—	—	—	—	P	P	P	P	P	P	—	P	P	P	P	—	P	P
Samoa*	—	—	—	—	—	P	P	—	—	—	—	—	—	—	—	P	P	—	—	P	P	P	—	P	—
San Marino	—	P	P	—	P	P	P	—	P	—	P	P	P	P	P	—	—	—	P	P	P	—	S	P	P
Sao Tome & Principe	—	—	P	—	P	P	P	—	—	—	—	—	S	S	S	P	P	—	—	P	P	S	S	P	—
Saudi Arabia	P	P	—	P	—	P	P	—	—	—	P	P	P	—	—	—	—	—	—	P	P	P	P	P	P
Senegal	2	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Serbia & Montenegro	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	P	—	—	P
Seychelles	2	P	P	P	P	P	P	P	—	1	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Sierra Leone	P	P	P	—	P	P	P	—	—	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	—
Singapore	—	P	—	P	P	P	P	P	—	—	P	—	—	—	—	—	—	—	—	—	—	P	—	P	P
Slovak Republic	2	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Slovenia	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Solomon Islands	P	P	—	—	—	P	P	—	—	P	P	—	1	—	1	P	P	—	—	P	P	P	—	P	—
Somalia	—	P	—	—	—	P	P	—	—	—	—	P	P	P	P	P	—	—	—	—	—	P	P	S	—
South Africa*	P	P	P	P	P	P	P	P	—	S	—	P	P	P	S	P	P	—	P	P	P	P	P	P	P
Spain	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Sri Lanka	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	—	—	—	P	—	—	P	P	P	P
St. Kitts & Nevis*	1	P	P	—	P	P	P	—	—	1	1	P	—	—	—	P	—	—	—	P	P	P	—	P	P
St. Lucia	P	P	P	1	P	P	P	—	—	1	P	P	P	—	—	—	—	—	—	P	P	P	—	P	P

St. Vincent*	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	—	—	—	P	P	P	P	P	P
Sudan	P	P	—	—	P	P	P	—	—	—	P	P	P	P	P	P	P	—	—	—	—	—	S	P	P
Suriname	2	P	P	—	P	P	P	—	—	1	P	P	P	P	P	P	P	P	—	P	P	P	—	P	—
Swaziland	1	P	P	—	P	P	P	—	—	P	1	P	P	—	—	P	P	—	P	P	P	—	—	P	P
Sweden	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P
Switzerland	P	P	P	P	P	P	P	—	P	—	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Syria	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	—	—	—	P	P	—	—	—	P	P
Tajikistan*	—	P	P	—	P	P	P	P	—	P	—	P	P	P	P	P	P	—	P	P	P	P	P	P	—
Tanzania	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	—	P	P	P	P	—	P	P
Thailand	—	P	—	—	—	P	P	—	—	P	—	P	P	P	P	—	—	—	—	—	—	P	—	P	P
Togo	2	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Tonga*	1	—	—	P	—	P	P	—	—	1	1	1	P	—	—	—	—	—	—	P	P	—	—	P	P
Trinidad & Tobago	P	P	P	—	P	P	P	—	—	P	P	P	P	P	P	P	P	P	—	P	P	P	—	P	P
Tunisia	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Turkey	P	P	P	P	P	P	P	—	P	P	P	P	P	S	S	P	P	—	P	—	—	P	P	P	P
Turkmenistan	P	P	P	—	P	P	P	—	—	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	—
Tuvalu*	1	—	—	—	—	P	P	—	—	1	1	—	—	1	—	P	P	—	—	—	—	P	—	P	—
Uganda	P	P	—	P	P	P	P	—	—	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Ukraine	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
United Arab Emir.	—	P	—	—	—	P	P	—	—	—	—	P	P	—	—	—	—	—	P	P	P	—	—	P	P
United Kingdom	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
United States	P	—	—	P	—	P	P	—	—	P	P	P	P	P	S	—	P	S	—	S	S	S	P	S	P
Uruguay	P	P	P	P	P	P	P	—	—	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Uzbekistan	—	P	—	P	P	P	—	—	P	—	P	P	P	P	—	—	—	—	P	P	P	P	P	P	—
Vanuatu*	—	—	—	—	—	P	P	—	—	—	1	—	—	—	—	—	—	—	—	P	P	P	—	P	—
Venezuela	—	P	P	P	P	P	P	P	—	P	—	P	P	P	P	—	P	P	P	P	P	P	P	P	—

APPENDIX C—International Human Rights Conventions—Continued

[See the footnotes for a key to the International Human Rights Conventions listed here.]

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
Vietnam*	P	—	—	P	—	P	P	—	—	—	—	—	P	P	P	—	—	—	—	P	—	P	—	P	P
Yemen	P	P	P	P	P	P	P	P	—	P	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Yugoslavia	P	P	P	P	P	P	P	P	—	P	P	—	P	P	P	P	P	—	P	P	P	P	P	P	—
Zambia	P	P	P	—	P	P	P	—	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Zimbabwe	1	P	—	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	—	P	P

P = Party S = Signatory * designates a non-ILO member
1 = Based on general declaration concerning treaty obligations prior to independence.
2 = Party to 1926 Convention only.

Key to Human Rights Conventions: **A**—Slavery **B**—ILO Convention 29 **C**—ILO Convention 87 **D**— Genocide **E**—ILO Convention 98 **F**—Prisoners of War **G**—Civilians in War **H**—Traffic in Persons **I**—European HR Conv. **J**—Pol. Rights of Women **K**—Suppl. Slavery Conv. **L**—ILO Convention 105 **M**—Racial Discrimination **N**—Civil and Pol. Rights **O**—Econ./Soc./Cul. Rights **P**—UN Refugee Convention **Q**—UN Refugee Protocol **R**—American HR Conv. **S**—ILO Convention 138 **T**—Geneva Protocol I **U**—Geneva Protocol II **V**—Disc. Against Women **W**—Torture **X**—Rights of the Child **Y**—ILO Convention 182

APPENDIX D

INTERNATIONAL HUMAN RIGHTS CONVENTIONS

A. Convention to Suppress the Slave Trade and Slavery of September 25,1926, as amended by the Protocol of December 7, 1953.

B. Convention Concerning Forced Labor of June 28, 1930 (ILO Convention 29).

C. Convention Concerning Freedom of Association and Protection of the Right to Organize of July 9, 1948 (ILO Convention 87).

D. Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948.

E. Convention Concerning the Application of the Principles of the Right to Organize and Bargain Collectively of July 1, 1949 (ILO Convention 98).

F. Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949.

G. Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949.

H. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of March 21, 1950.

I. European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950.

J. Convention on the Political Rights of Women of March 31, 1953.

K. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of September 7, 1956.

L. Convention Concerning the Abolition of Forced Labor of June 25, 1957 (ILO Convention 105).

M. International Convention on the Elimination of All Forms of Racial Discrimination of December 21, 1965.

N. International Covenant on Civil and Political Rights of December 16, 1966.

O. International Covenant on Economic, Social and Cultural Rights of December 16, 1966.

P. Convention Relating to the Status of Refugees of July 28, 1951.

Q. Protocol Relating to the Status of Refugees of January 31, 1967.

R. American Convention on Human Rights of November 22, 1969.

S. Convention Concerning Minimum Age for Admission to Employment of June 26, 1973 (ILO Convention 138).

T. Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of June 8, 1977.

U. Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of June 8, 1977.

V. Convention on the Elimination of All Forms of Discrimination Against Women of December 18, 1979.

W. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984.

X. Convention on the Rights of the Child of November 20, 1989.

Y. Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor of June 17, 1999 (ILO Convention 182).

APPENDIX E.—2004 Selected U.S. Assistance Programs—Actual Obligations
Country/Account Summaries ('Spigots')
($ in thousands)

Countries/Accounts	CSH	DA	ESF	FMF	FSA	GHAI	IMET	INCLE	ACI	MRA	NADR	PKO	SEED	Other	Total
Africa															
Africa Regional	23,027	45,707-	—	—	—	—	2,830	—	—	—	9,761	—	—	81,325	
Africa Regional Fund	—	—	11,929	—	—	—	—	—	—	—	—	—	—	—	11,929
African Contingency Operations Training and Assistance	—	—	—	—	—	—	—	—	—	—	—	15,410	—	—	15,410
African Development Bank	—	—	—	—	—	—	—	—	—	—	—	—	—	5,075	5,075
African Development Foundation	—	—	—	—	—	—	—	—	—	—	—	—	—	18,579	18,579
African Development Fund	—	—	—	—	—	—	—	—	—	—	—	—	—	112,060	112,060
Angola	8,100	6,171	3,479	—	—	—	300	—	—	—	5,300	—	—	—	23,350
ATA Regional—Africa	—	—	—	—	—	—	—	—	—	—	10,718	—	—	—	10,718
Benin	7,550	8,209	—	—	—	—	—	—	—	—	—	—	—	2,622	18,381
Botswana	—	—	—	500	—	8,806	922	—	—	—	—	—	—	1,430	11,658
Burkina Faso	—	—	—	—	—	—	115	—	—	—	—	—	—	2,719	2,834
Burundi	700	2,270	3,479	—	—	—	—	—	—	—	—	—	—	—	6,449
Cameroon	—	—	—	—	—	—	361	—	—	—	—	—	—	3,142	3,503
Cape Verde	—	—	—	—	—	—	200	—	—	—	—	—	—	1,519	1,719
Central Africa Regional	—	16,000	—	—	—	—	—	—	—	—	—	—	—	—	16,000
Chad	—	—	—	—	—	—	574	—	—	—	950	—	—	1,569	3,093
Comoros	—	—	—	—	—	—	121	—	—	—	—	—	—	—	121
Cote d'Ivoire	—	—	—	—	—	7,523	—	—	—	—	—	—	—	—	7,523
Democratic Republic of Congo	22,404	12,699	4,971	—	—	—	332	—	—	—	—	—	—	—	40,406
Djibouti	—	—	—	6,378	—	—	406	—	—	—	271	—	—	—	7,055
Eritrea	5,000	1,739	—	—	—	—	42	—	—	—	1,452	—	—	—	8,233
Ethiopia	33,600	18,426	3,971	2,480	—	15,231	542	—	—	—	—	—	—	—	74,250
Gabon	—	—	—	—	—	—	283	—	—	—	—	—	—	2,372	2,655
Gambia	—	—	—	—	—	—	183	—	—	—	—	—	—	1,936	2,119
Ghana	18,620	18,645	—	737	—	—	921	—	—	—	—	—	—	2,545	41,468
Guinea	6,350	12,505	—	—	—	—	482	—	—	—	—	—	—	2,543	21,880
Kenya	34,877	12,001	7,953	6,635	—	34,631	638	—	—	—	1,488	—	—	2,937	101,160
Kimberley Process	—	—	1,491	—	—	—	—	—	—	—	—	—	—	—	1,491
Lesotho	—	—	—	—	—	—	—	—	—	—	—	—	—	2,282	2,282
Liberia	2,819	—	—	—	—	—	—	—	—	—	160	—	—	200,000	202,979
Madagascar	10,365	10,378	—	—	—	—	333	—	—	—	—	—	—	2,203	23,279

Malawi	19,800	12,441	—	—	—	—	415	—	—	—	—	—	—	2,173	34,829
Mali	14,200	25,267	—	—	—	—	—	—	—	—	—	—	—	3,573	43,040
Mauritania	—	—	—	—	—	—	234	—	—	—	—	—	—	1,840	2,074
Mauritius	—	—	—	—	—	—	144	—	—	—	—	—	—	—	144
Military Health Affairs	—	—	—	1,490	—	—	—	—	—	—	—	—	—	—	1,490
Mozambique	20,380	24,572	—	—	—	11,083	243	—	—	—	1,492	—	—	2,092	59,862
MRA Africa	—	—	—	—	—	—	—	—	—	226,387	—	—	—	—	226,387
Namibia	3,965	6,631	—	—	—	14,147	—	—	—	—	—	—	—	2,092	26,835
NED Democracy Programs—AF	—	—	2,982	—	—	—	—	—	—	—	—	—	—	—	2,982
Niger	—	—	—	—	—	—	—	—	—	—	—	—	—	2,735	2,735
Nigeria	32,208	15,396	4,971	—	—	25,415	—	2,250	—	—	—	—	—	—	80,240
REDSO/ESA	12,500	22,977	—	—	—	—	—	—	—	—	—	—	—	—	35,477
Regional Center for Southern Africa	5,950	18,921	—	—	—	—	—	—	—	—	—	—	—	—	24,871
Regional Organizations	—	—	2,982	—	—	—	—	—	—	—	—	—	—	—	2,982
Republic of the Congo	—	—	—	—	—	—	27	—	—	—	—	—	—	—	27
Rwanda	13,300	5,871	—	—	—	16,382	298	—	—	—	—	—	—	—	35,851
Safe Skies	—	—	4,971	—	—	—	—	—	—	—	—	—	—	—	4,971
Sao Tome and Principe	—	—	—	—	—	—	188	—	—	—	50	—	—	—	238
Senegal	14,675	13,896	—	737	—	—	1,188	—	—	—	112	—	—	3,448	34,056
Seychelles	—	—	—	—	—	—	98	—	—	—	—	—	—	—	98
Sierra Leone	100	3,685	4,971	—	—	—	416	—	—	—	—	—	—	—	9,172
Somalia	100	899	—	—	—	—	—	—	—	—	—	—	—	—	999
South Africa	31,028	29,398	1,988	—	—	31,787	—	1,770	—	—	—	—	—	3,114	99,085
Sudan	11,500	50,263	10,941	—	—	—	—	—	—	—	2,858	5,000	—	90,000	170,562
Swaziland	—	—	—	—	—	—	131	—	—	—	—	—	—	1,574	1,705
Tanzania	23,000	7,523	—	—	—	25,027	—	—	—	—	844	—	—	2,545	58,939
Togo	—	—	—	—	—	—	204	—	—	—	—	—	—	2,489	2,693
Uganda	36,020	28,176	—	1,990	—	44,598	371	—	—	—	150	—	—	1,535	112,840
West Africa Regional	19,300	20,489	—	—	—	—	—	—	—	—	—	—	—	—	39,789
Zambia	34,801	14,186	—	—	—	29,210	461	—	—	—	—	—	—	3,421	82,079
Zimbabwe	11,100	1,375	2,982	—	—	—	—	—	—	—	—	—	—	—	15,457
Total Africa	477,339	466,716	74,061	20,947	—	263,840	11,173	6,850	—	226,387	25,845	30,171	—	488,164	2,091,493
East Asia and the Pacific															
ASEAN	—	—	994	—	—	—	—	—	—	—	—	—	—	—	994
ATA Regional—East Asia and the Pacific	—	—	—	—	—	—	—	—	—	—	8,707	—	—	—	8,707
Burma	—	—	12,923	—	—	—	—	—	—	—	—	—	—	—	12,923
Cambodia	29,360	2,750	16,900	—	—	—	—	—	—	—	3,916	—	—	—	52,926

APPENDIX E.—2004 Selected U.S. Assistance Programs—Actual Obligations Country/Account Summaries ('Spigots')—Continued

($ in thousands)

Countries/Accounts	CSH	DA	ESF	FMF	FSA	GHAI	IMET	INCLE	ACI	MRA	NADR	PKO	SEED	Other	Total
China	—	—	—	—	—	—	—	—	—	—	—	—	—	863	863
East Timor	—	—	22,367	2,420	—	—	159	—	—	—	—	1,050	—	1,320	27,316
Environmental Programs	—	—	1,740	—	—	—	—	—	—	—	—	—	—	—	1,740
Fiji	—	—	—	—	—	—	229	—	—	—	—	—	—	1,439	1,668
Indonesia	33,000	33,291	49,705	—	—	—	599	—	—	—	5,998	—	—	—	122,593
Kiribati	—	—	—	—	—	—	—	—	—	—	—	—	—	1,322	1,322
Laos	—	—	—	—	—	—	—	2,000	—	—	1,412	—	—	—	3,412
Malaysia	—	—	—	—	—	—	939	—	—	—	230	—	—	—	1,169
Micronesia	—	—	—	—	—	—	—	—	—	—	—	—	—	1,963	1,963
Mongolia	—	—	9,941	995	—	—	872	—	—	—	—	1,000	—	1,646	14,454
MRA East Asia	—	—	—	—	—	—	—	—	—	20,404	—	—	—	—	20,404
NED Democracy Programs—EAP	—	—	2,982	—	—	—	—	—	—	—	—	—	—	—	2,982
Papua New Guinea	—	—	—	—	—	—	292	—	—	—	—	—	—	—	292
Philippines	28,850	21,568	17,645	19,880	—	—	2,700	2,000	—	—	750	15,000	—	2,774	111,167
Regional Development Mission/Asia	17,073	9,200	—	—	—	—	—	—	—	—	—	—	—	—	26,273
Regional Women's Issues	—	—	1,988	—	—	—	—	—	—	—	—	—	—	—	1,988
Samoa	—	—	—	—	—	—	—	—	—	—	—	—	—	1,293	1,293
Singapore	—	—	—	—	—	—	—	—	—	—	430	—	—	—	430
Solomon Islands	—	—	—	—	—	—	45	—	—	—	—	—	—	27	72
South Pacific Fisheries	—	—	17,894	—	—	—	—	—	—	—	—	—	—	—	17,894
Taiwan	—	—	—	—	—	—	—	—	—	—	550	—	—	—	550
Thailand	—	—	—	881	—	—	2,572	2,000	—	—	1,380	500	—	1,840	9,173
Tibet	—	—	3,976	—	—	—	—	—	—	—	—	—	—	—	3,976
Tonga	—	—	—	500	—	—	136	—	—	—	—	—	—	1,093	1,729
Vanuatu	—	—	—	—	—	—	100	—	—	—	—	—	—	1,778	1,878
Vietnam	6,100	3,000	—	—	—	10,000	—	—	—	—	3,214	—	—	—	22,314
Total East Asia and the Pacific	114,383	69,809	159,055	24,676	—	10,000	8,643	6,000	—	20,404	26,587	17,550	—	17,358	474,465
Europe and Eurasia															
Albania	—	—	—	5,000	—	—	1,198	—	—	—	600	—	28,235	1,501	36,534
Armenia	—	—	—	2,485	74,558	—	869	—	—	—	300	—	—	1,604	79,816
ATA Regional—Europe and Eurasia	—	—	—	—	—	—	—	—	—	—	20,079	—	—	—	20,079

Azerbaijan	—	—	—	2,485	38,782	—	1,084	—	—	—	3,068	—	—	1,326	46,745
Belarus	—	—	—	—	8,055	—	—	—	—	—	—	—	—	—	8,055
Bosnia and Herzegovina	—	—	—	18,400	—	—	991	—	—	—	600	—	44,735	—	64,726
Bulgaria	—	—	—	8,450	—	—	1,463	—	—	—	2,000	—	27,835	3,214	42,962
Central and Eastern Europe Regional	250	—	—	—	—	—	—	—	—	—	—	—	—	—	250
Central Asian Republics	1,000	—	—	—	—	—	—	—	—	—	—	—	—	—	1,000
Croatia	—	—	—	—	—	—	—	—	—	—	850	—	24,853	—	25,703
Cyprus	—	—	38,420	—	—	—	—	—	—	—	400	—	—	—	38,820
Czech Republic	—	—	—	7,869	—	—	2,276	—	—	—	—	—	—	—	10,145
Estonia	—	—	—	5,979	—	—	1,408	—	—	—	995	—	—	—	8,382
European Bank for Reconstruction and Development	—	—	—	—	—	—	—	—	—	—	—	—	—	35,222	35,222
Georgia	—	—	—	12,000	71,701	—	1,228	—	—	—	1,500	3,000	—	1,525	90,954
Greece	—	—	—	—	—	—	568	—	—	—	—	—	—	—	568
Hungary	—	—	—	6,938	—	—	2,044	—	—	—	—	—	—	—	8,982
International Fund for Ireland	—	—	18,391	—	—	—	—	—	—	—	—	—	—	—	18,391
Irish Visa Program	—	—	3,479	—	—	—	—	—	—	—	—	—	—	—	3,479
Kazakhstan	—	—	—	2,980	33,342	—	1,233	—	—	—	2,000	—	—	2,312	41,867
Kosovo	—	—	—	—	—	—	—	—	—	—	—	—	78,534	—	78,534
Kyrgyz Republic	—	—	—	4,075	36,238	—	1,047	—	—	—	500	—	—	1,669	43,529
Latvia	—	—	—	6,496	—	—	1,337	—	—	—	2,185	—	—	—	10,018
Lithuania	—	—	—	6,389	—	—	1,343	—	—	—	840	—	—	—	8,572
Macedonia	—	—	—	7,950	—	—	858	—	—	—	550	—	38,770	1,542	49,670
Malta	—	—	—	—	—	—	—	—	—	—	250	—	—	—	250
Moldova	—	—	—	990	22,543	—	1,225	—	—	—	640	—	—	2,253	27,651
MRA Europe	—	—	—	—	—	—	—	—	—	54,558	—	—	—	—	54,558
OSCE Bosnia	—	—	—	—	—	—	—	—	—	—	—	11,500	—	—	11,500
OSCE Croatia	—	—	—	—	—	—	—	—	—	—	—	1,800	—	—	1,800
OSCE Kosovo	—	—	—	—	—	—	—	—	—	—	—	7,000	—	—	7,000
OSCE Regional—Europe and Eurasia	—	—	—	—	—	—	—	—	—	—	—	8,014	—	—	8,014
Poland	—	—	—	32,500	—	—	2,283	—	—	—	—	—	—	—	34,783
Portugal	—	—	—	—	—	—	752	—	—	—	—	—	—	—	752
Regional FSA	—	—	—	—	42,646	—	—	—	—	—	—	—	—	—	42,646
Regional SEED	—	—	—	—	—	—	—	—	—	—	—	—	37,775	—	37,775
Romania	—	—	—	8,950	—	—	1,529	—	—	—	715	—	27,835	3,141	42,170
Russia	3,000	—	—	—	96,350	—	778	—	—	—	1,800	—	—	—	101,928
Science Centers/Bio Redirection	—	—	—	—	—	—	—	—	—	—	50,202	—	—	—	50,202
Serbia and Montenegro	—	—	—	—	—	—	—	—	—	—	750	—	133,803	—	134,553

APPENDIX E.—2004 Selected U.S. Assistance Programs—Actual Obligations Country/Account Summaries ('Spigots')—Continued

($ in thousands)

Countries/Accounts	CSH	DA	ESF	FMF	FSA	GHAI	IMET	INCLE	ACI	MRA	NADR	PKO	SEED	Other	Total
Slovakia	—	—	—	6,603	—	—	1,075	—	—	—	305	—	—	—	7,983
Slovenia	—	—	—	1,974	—	—	950	—	—	—	365	—	—	—	3,289
Tajikistan	—	—	—	1,995	24,451	—	351	—	—	—	300	—	—	—	27,097
Turkey	—	—	10,000	35,000	—	—	5,000	—	—	—	600	—	—	—	50,600
Turkmenistan	—	—	—	500	5,700	—	340	—	—	—	—	—	—	1,858	8,398
Ukraine	1,750	—	—	5,000	94,283	—	1,834	—	—	—	2,142	3,500	—	4,504	113,013
Uzbekistan	—	—	—	—	35,888	—	484	—	—	—	—	—	—	2,070	38,442
Total Europe and Eurasia	6,000	—	70,290	191,008	584,537	—	35,548	—	—	54,558	94,536	34,814	442,375	63,741	1,577,407
Near East															
Algeria	—	—	—	—	—	—	722	—	—	—	—	—	—	—	722
ATA Regional—Near East Asia	—	—	—	—	—	—	—	—	—	—	11,781	—	—	—	11,781
Bahrain	—	—	—	24,682	—	—	568	—	—	—	—	—	—	—	25,250
Egypt	—	—	571,608	1,292,330	—	—	1,369	—	—	—	—	—	—	—	1,865,307
Iraq	—	—	—	—	—	—	—	—	—	—	500	—	—	—	500
Israel	—	—	477,168	2,147,256	—	—	—	—	—	—	—	—	—	—	2,624,424
Jordan	—	—	348,525	204,785	—	—	3,225	—	—	—	2,030	—	—	1,268	559,833
Lebanon	—	400	34,794	—	—	—	700	—	—	—	900	—	—	—	36,794
Middle East Partnership Initiative	—	—	89,469	—	—	—	—	—	—	—	—	—	—	—	89,469
Middle East Regional Cooperation	—	—	5,467	—	—	—	—	—	—	—	—	—	—	—	5,467
Morocco	—	5,400	—	9,940	—	—	1,997	—	—	—	350	—	—	3,110	20,797
MRA Humanitarian Migrants to Israel	—	—	—	—	—	—	—	—	—	49,705	—	—	—	—	49,705
MRA Near East	—	—	—	—	—	—	—	—	—	100,538	—	—	—	—	100,538
Multinational Force and Observers	—	—	—	—	—	—	—	—	—	—	—	16,213	—	—	16,213
NED Muslim Democracy Programs	—	—	3,479	—	—	—	—	—	—	—	—	—	—	—	3,479
Oman	—	—	—	24,850	—	—	825	—	—	—	400	—	—	—	26,075
Saudi Arabia	—	—	—	—	—	—	24	—	—	—	—	—	—	—	24
Tunisia	—	—	—	9,827	—	—	1,899	—	—	—	—	—	—	—	11,726
United Arab Emirates	—	—	—	—	—	—	—	—	—	—	250	—	—	—	250
West Bank/Gaza	—	—	74,558	—	—	—	—	—	—	—	—	—	—	—	74,558

Yemen	—	—	11,432	14,910	—	—	886	—	—	—	1,243	5,000	—	—	33,471
Total Near East	—	5,800	1,616,500	3,728,580	—	—	12,215	—	—	150,243	17,454	21,213	—	4,378	5,556,383
South Asia															
Afghanistan	31,000	148,822	899,558	413,705	—	—	674	220,000	—	—	64,902	20,000	—	—	1,798,661
ATA Regional—South Asia	—	—	—	—	—	—	—	—	—	—	6,524	—	—	—	6,524
Bangladesh	35,500	18,200	4,971	—	—	—	862	—	—	—	—	—	—	1,566	61,099
India	47,800	22,539	14,912	—	—	—	1,366	—	—	—	685	—	—	—	87,302
Maldives	—	—	—	—	—	—	181	—	—	—	—	—	—	—	181
MRA South Asia	—	—	—	—	—	—	—	—	—	73,741	—	—	—	—	73,741
Nepal	24,840	8,874	4,971	3,975	—	—	546	—	—	—	—	—	—	2,108	45,314
Pakistan	25,600	49,400	200,000	74,560	—	—	1,384	31,500	—	—	4,930	—	—	—	387,374
South Asia Regional Fund	—	—	1,988	—	—	—	—	—	—	—	—	—	—	—	1,988
Sri Lanka	300	4,750	11,929	2,495	—	—	553	—	—	—	1,775	—	—	—	21,802
Total South Asia	165,040	252,585	1,138,329	494,735	—	—	5,566	251,500	—	73,741	78,816	20,000	—	3,674	2,483,986
Western Hemisphere															
Administration of Justice	—	—	4,424	—	—	—	—	—	—	—	—	—	—	—	4,424
Amazon Environmental Initiative	—	10,000	—	—	—	—	—	—	—	—	—	—	—	—	10,000
Argentina	—	—	—	—	—	—	1,087	—	—	—	—	—	—	—	1,087
ATA Regional—Western Hemisphere	—	—	—	—	—	—	—	—	—	—	5,331	—	—	—	5,331
Bahamas	—	—	—	99	—	—	165	1,000	—	—	—	—	—	—	1,264
Belize	—	—	—	191	—	—	277	—	—	—	—	—	—	1,614	2,082
Bolivia	14,602	12,032	8,000	3,976	—	—	589	—	91,000	—	—	—	—	2,870	133,069
Brazil	9,650	7,643	750	—	—	—	—	—	10,200	—	—	—	—	—	28,243
Caribbean Regional	4,029	6,281	—	—	—	—	—	—	—	—	—	—	—	—	10,310
Central American Regional	4,950	15,807	—	—	—	—	—	—	—	—	—	—	—	—	20,757
Chile	—	—	—	347	—	—	600	—	—	—	—	—	—	—	947
Colombia	—	—	—	98,450	—	—	1,676	—	473,900	—	—	—	—	—	574,026
Costa Rica	—	—	—	—	—	—	—	—	—	—	—	—	—	1,395	1,395
Cuba	—	—	21,369	—	—	—	—	—	—	—	—	—	—	—	21,369
Dominican Republic	13,166	11,413	3,682	2,000	—	—	973	—	—	—	—	—	—	2,734	33,968
Eastern Caribbean	—	—	—	3,137	—	—	719	—	—	—	—	—	—	3,044	6,900
Ecuador	—	7,068	10,473	—	—	—	—	—	35,000	—	—	—	—	2,995	55,536
El Salvador	7,150	27,155	—	5,000	—	—	1,480	—	—	—	—	—	—	2,158	42,943
Guatemala	11,400	12,362	4,971	—	—	—	504	3,000	—	—	—	—	—	3,601	35,838
Guyana	1,700	2,850	—	95	—	5,097	359	—	—	—	—	—	—	1,489	11,590
Haiti	22,783	8,899	54,982	295	—	13,047	235	—	—	—	—	210	—	1,403	101,854

APPENDIX E.—2004 Selected U.S. Assistance Programs—Actual Obligations Country/Account Summaries ('Spigots')—Continued

($ in thousands)

Countries/Accounts	CSH	DA	ESF	FMF	FSA	GHAI	IMET	INCLE	ACI	MRA	NADR	PKO	SEED	Other	Total
Hemispheric Cooperation Program	—	—	6,941	—	—	—	—	—	—	—	—	—	—	—	6,941
Honduras	12,777	22,797	—	2,375	—	—	1,309	—	—	—	—	—	—	4,063	43,321
Inter-American Development Bank—Multilateral Investment Fund	—	—	—	—	—	—	—	—	—	—	—	—	—	24,853	24,853
Inter-American Foundation	—	—	—	—	—	—	—	—	—	—	—	—	—	16,238	16,238
Jamaica	4,621	14,160	—	597	—	—	700	1,500	—	—	—	—	—	2,608	24,186
LAC Regional	12,144	33,527	—	—	—	—	—	—	—	—	—	—	—	—	45,671
Latin America Regional	—	—	—	—	—	—	—	4,850	—	—	—	—	—	—	4,850
Mexico	3,700	17,282	11,432	—	—	—	1,275	37,000	—	—	—	—	—	987	71,676
MRA Western Hemisphere	—	—	—	—	—	—	—	—	—	21,526	—	—	—	—	21,526
Nicaragua	7,406	25,536	—	938	—	—	779	—	—	—	300	500	—	2,499	37,958
OAS Demining	—	—	—	—	—	—	—	—	—	—	2,611	—	—	—	2,611
OAS Development Assistance Programs	—	—	—	—	—	—	—	—	—	—	—	—	—	5,468	5,468
OAS Fund for Strengthening Democracy	—	—	—	—	—	—	—	—	—	—	—	—	—	2,982	2,982
OAS Special Mission in Haiti	—	—	—	—	—	—	—	—	—	—	—	—	—	4,971	4,971
Panama	—	5,622	1,000	2,000	—	—	558	—	6,487	—	40	—	—	2,478	18,185
Paraguay	2,325	4,140	2,982	—	—	—	—	—	—	—	—	—	—	3,020	12,467
Peru	17,582	13,786	7,453	—	—	—	—	—	116,000	—	—	—	—	1,892	156,713
Peru-Ecuador Peace	—	—	3,976	—	—	—	—	—	—	—	—	—	—	—	3,976
South America Regional	—	2,400	—	—	—	—	—	—	—	—	—	—	—	—	2,400
Suriname	—	—	—	114	—	—	151	—	—	—	—	—	—	1,206	1,471
Third Border Initiative	—	—	4,976	—	—	—	—	—	—	—	—	—	—	—	4,976
Venezuela	—	—	1,497	—	—	—	—	—	5,000	—	—	—	—	—	6,497
Total Western Hemisphere	149,985	260,760	148,908	119,614	—	18,144	13,436	47,350	737,587	21,526	8,282	710	—	96,568	1,622,870
Global															
Asia Regional	—	—	—	—	—	—	—	1,000	—	—	—	—	—	—	1,000
Asia—Near East Regional	2,317	19,667	—	—	—	—	—	—	—	—	—	—	—	—	21,984
Asian Development Fund	—	—	—	—	—	—	—	—	—	—	—	—	—	143,569	143,569
ATA Course Translations	—	—	—	—	—	—	—	—	—	—	2,748	—	—	—	2,748

ATA Program Management	—	—	—	—	—	—	—	—	—	—	5,888	—	—	—	5,888
Center for Human Settlements	—	—	—	—	—	—	—	—	—	—	—	—	—	746	746
Central Programs	—	—	—	—	—	129,797	—	—	—	—	—	—	—	—	129,797
Civilian Police Program	—	—	—	—	—	—	—	2,700	—	—	—	—	—	—	2,700
CTBT International Monitoring System	—	—	—	—	—	—	—	—	—	—	18,888	—	—	—	18,888
Debt Restructuring	—	—	—	—	—	—	—	—	—	—	—	—	—	94,440	94,440
Demand Reduction	—	—	—	—	—	—	—	5,000	—	—	—	—	—	—	5,000
Demining Administrative Expenses	—	—	—	—	—	—	—	—	—	—	690	—	—	—	690
Demining Crosscutting Initiatives	—	—	—	—	—	—	—	—	—	—	4,019	—	—	—	4,019
Demining Research and Training	—	—	—	—	—	—	—	—	—	—	744	—	—	—	744
Democracy, Conflict & Humanitarian Assistance	4,345	86,429	—	—	—	—	—	—	—	—	—	—	—	—	90,774
Development Credit Program—Admin. Exp.	—	—	—	—	—	—	—	—	—	—	—	—	—	7,953	7,953
E-D—IMET Schools	—	—	—	—	—	—	3,360	—	—	—	—	—	—	—	3,360
Economic Growth, Agriculture and Trade	—	172,987	—	—	—	—	—	—	—	—	—	—	—	—	172,987
Enhanced International Peacekeeping Capabilities	—	—	—	1,990	—	—	—	—	—	—	—	—	—	—	1,990
Export Control Program Administration	—	—	—	—	—	—	—	—	—	—	1,850	—	—	—	1,850
Export Control Regional Advisors	—	—	—	—	—	—	—	—	—	—	6,426	—	—	—	6,426
Export-Import Bank—Administrative Expenses	—	—	—	—	—	—	—	—	—	—	—	—	—	72,467	72,467
Export-Import Bank—Direct Loans, Negative Subsidies	—	—	—	—	—	—	—	—	—	—	—	—	—	(42,000)	(42,000)
FMF Administrative Costs	—	—	—	40,260	—	—	—	—	—	—	—	—	—	—	40,260
General Costs	—	—	—	—	—	—	500	—	—	—	—	—	—	—	500
Global Development Alliance	—	14,960	—	—	—	—	—	—	—	—	—	—	—	—	14,960
Global Environment Facility	—	—	—	—	—	—	—	—	—	—	—	—	—	138,418	138,418
Global Health	328,806	1,000	—	—	—	—	—	—	—	—	—	—	—	—	329,806
Global Regional Export Controls	—	—	—	—	—	—	—	—	—	—	585	—	—	—	585
Human Rights and Democracy Fund	—	—	34,296	—	—	—	—	—	—	—	—	—	—	—	34,296
INL Anticrime Programs	—	—	—	—	—	—	—	11,324	—	—	—	—	—	—	11,324
International Atomic Energy Agency Voluntary Contribution	—	—	—	—	—	—	—	—	—	—	52,687	—	—	—	52,687
International Civil Aviation Organization	—	—	—	—	—	—	—	—	—	—	—	—	—	994	994
International Conservation Programs	—	—	—	—	—	—	—	—	—	—	—	—	—	6,362	6,362

APPENDIX E.—2004 Selected U.S. Assistance Programs—Actual Obligations Country/Account Summaries ('Spigots')—Continued

($ in thousands)

Countries/Accounts	CSH	DA	ESF	FMF	FSA	GHAI	IMET	INCLE	ACI	MRA	NADR	PKO	SEED	Other	Total
International Contributions for Scientific, Educational, and Cultural Activities	—	—	—	—	—	—	—	—	—	—	—	—	—	1,889	1,889
International Development Association	—	—	—	—	—	—	—	—	—	—	—	—	—	907,812	907,812
International Disaster and Famine Assistance	—	—	—	—	—	—	—	—	—	—	—	—	—	253,993	253,993
International Fund for Agricultural Development	—	—	—	—	—	—	—	—	—	—	—	—	—	14,916	14,916
International Law Enforcement Academies	—	—	—	—	—	—	—	14,500	—	—	—	—	—	—	14,500
International Organizations	—	—	—	—	—	—	—	12,200	—	—	—	—	—	—	12,200
International Organizations/Partnerships	564,900	—	—	—	—	—	—	—	—	—	—	—	—	—	564,900
International Panel on Climate Change/UN Framework Convention on Climate Change	—	—	—	—	—	—	—	—	—	—	—	—	—	5,567	5,567
International Trust Fund—NADR	—	—	—	—	—	—	—	—	—	—	9,941	—	—	—	9,941
Interregional Aviation Support	—	—	—	—	—	—	—	70,000	—	—	—	—	—	—	70,000
Legislative and Public Affairs	—	2,000	—	—	—	—	—	—	—	—	—	—	—	—	2,000
MANPADS	—	—	—	—	—	—	—	—	—	—	2,000	—	—	—	2,000
Millennium Challenge Account	—	—	—	—	—	—	—	—	—	—	—	—	—	994,100	994,100
Mobile Antiterrorism Training Team (MATT)	—	—	—	—	—	—	—	—	—	—	4,776	—	—	—	4,776
Montreal Protocol Multilateral Fund	—	—	—	—	—	—	—	—	—	—	—	—	—	20,876	20,876
MRA Administrative Expenses	—	—	—	—	—	—	—	—	—	20,876	—	—	—	—	20,876
MRA Migration	—	—	—	—	—	—	—	—	—	17,303	—	—	—	—	17,303
MRA Refugee Admissions	—	—	—	—	—	—	—	—	—	132,464	—	—	—	—	132,464
MRA Strategic Global Priorities	—	—	—	—	—	—	—	—	—	63,210	—	—	—	—	63,210
Multilateral Investment Guarantee Agency	—	—	—	—	—	—	—	—	—	—	—	—	—	1,117	1,117
New Course Development	—	—	—	—	—	—	—	—	—	—	3,300	—	—	—	3,300
No-Year/Carry Forward	—	—	—	—	—	—	718	—	—	—	—	—	—	—	718

Non-Proliferation and Disarmament Fund	—	—	—	—	—	—	—	—	—	—	29,823	—	—	—	29,823
Oceans, Environmental and Science Initiative	—	—	3,976	—	—	—	—	—	—	—	—	—	—	—	3,976
Office of Transition Initiatives	—	—	—	—	—	—	—	—	—	—	—	—	—	54,676	54,676
OPIC—Administrative Expenses	—	—	—	—	—	—	—	—	—	—	—	—	—	41,141	41,141
OPIC—Credit Funding	—	—	—	—	—	—	—	—	—	—	—	—	—	23,858	23,858
OPIC—Net Offsetting Collections	—	—	—	—	—	—	—	—	—	—	—	—	—	(288,999)	(288,999)
Other Bilateral Programs	—	—	—	—	—	16,500	—	—	—	—	—	—	—	—	16,500
Other Programs	6,749	5,718	12,426	—	—	—	—	—	—	—	—	—	—	—	24,893
Partnership to Eliminate Sweatshops	—	—	1,988	—	—	—	—	—	—	—	—	—	—	—	1,988
Peace Corps Other	—	—	—	—	—	—	—	—	—	—	—	—	—	149,736	149,736
Program & Policy Coordination	4,310	5,898	—	—	—	—	—	—	—	—	—	—	—	—	10,208
Program Development and Support	—	—	—	—	—	—	—	13,850	—	—	—	—	—	—	13,850
Program Equipment	—	—	—	—	—	—	—	—	—	—	500	—	—	—	500
Reconciliation Programs	—	—	7,953	—	—	—	—	—	—	—	—	—	—	—	7,953
SA/LW Conference	—	—	—	—	—	—	—	—	—	—	30	—	—	—	30
Security and Sustainability Programs	—	—	2,982	—	—	—	—	—	—	—	—	—	—	—	2,982
Strategic Information/Evaluation	—	—	—	—	—	14,850	—	—	—	—	—	—	—	—	14,850
Systems Support and Upgrades	—	—	—	—	—	—	—	5,000	—	—	—	—	—	—	5,000
Technical Oversight and Management	—	—	—	—	—	34,972	—	—	—	—	—	—	—	—	34,972
Trade and Development Agency	—	—	—	—	—	—	—	—	—	—	—	—	—	49,705	49,705
Trafficking in Persons	—	—	12,427	—	—	—	—	12,000	—	—	—	—	—	—	24,427
Treasury Technical Assistance	—	—	—	—	—	—	—	—	—	—	—	—	—	18,888	18,888
U.S. Emergency Refugee and Migration Assistance Fund	—	—	—	—	—	—	—	—	—	—	—	—	—	29,823	29,823
UN Children's Fund	—	—	—	—	—	—	—	—	—	—	—	—	—	119,292	119,292
UN Development Fund for Women	—	—	—	—	—	—	—	—	—	—	—	—	—	994	994
UN Development Program	—	—	—	—	—	—	—	—	—	—	—	—	—	101,398	101,398
UN Environment Program	—	—	—	—	—	—	—	—	—	—	—	—	—	10,935	10,935
UN High Commissioner, Human Rights	—	—	—	—	—	—	—	—	—	—	—	—	—	2,484	2,484
UN Voluntary Fund for Technical Cooperation in the Field of Human Rights	—	—	—	—	—	—	—	—	—	—	—	—	—	1,491	1,491
UN Voluntary Fund for Victims of Torture	—	—	—	—	—	—	—	—	—	—	—	—	—	5,468	5,468
United Nations Crime Center	—	—	—	—	—	—	—	1,000	—	—	—	—	—	—	1,000

APPENDIX E.—2004 Selected U.S. Assistance Programs—Actual Obligations Country/Account Summaries ('Spigots')—Continued

($ in thousands)

Countries/Accounts	CSH	DA	ESF	FMF	FSA	GHAI	IMET	INCLE	ACI	MRA	NADR	PKO	SEED	Other	Total
USAID Capital Investment Fund	—	—	—	—	—	—	—	—	—	—	—	—	—	98,315	98,315
USAID Inspector General Operating Expenses	—	—	—	—	—	—	—	—	—	—	—	—	—	36,694	36,694
USAID Operating Expenses	—	—	—	—	—	—	—	—	—	—	—	—	—	651,136	651,136
Wheelchairs	—	—	4,971	—	—	—	—	—	—	—	—	—	—	—	4,971
World Meteorological Organization	—	—	—	—	—	—	—	—	—	—	—	—	—	1,988	1,988
World Trade Organization	—	—	—	—	—	—	—	—	—	—	—	—	—	994	994
Total Global	911,427	308,659	81,019	42,250	—	196,119	4,578	148,574	—	233,853	144,895	—	—	3,733,236	5,804,610
Total FY 2004	1,824,174	1,364,329	3,288,162	4,621,810	584,537	488,103	91,159	460,274	737,587	780,712	396,415	124,458	442,375	4,407,119	19,611,214

APPENDIX F—RESOLUTIONS ADOPTED BY THE COMMISSION ON HUMAN RIGHTS AT ITS 60TH SESSION

Year/Res. No.	Res. Title	Method of Adoption	Agenda Item
2004/1	Grave situation in the Occupied Palestinian Territory.	Recorded vote 31/2/18	8
2004/2	Strengthening the Office of the United Nations High Commissioner for Human Rights.	Recorded vote 51/0/2	18
2004/3	Situation in Occupied Palestine ..	Recorded Vote 52/1/0	5
2004/4	Question of Western Sahara	Without a vote	5
2004/5	Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self/determination.	Recorded vote 36/14/3	5
2004/6	Combating Defamation of Religions.	Recorded vote 29/16/7	6
2004/7	Right to Development	Recorded vote 49/3/0	7
2004/8	Human Rights in the occupied Syrian Golan.	Recorded vote 31/1/21	8
2004/9	Israeli settlements in the occupied Arab territories.	Recorded vote 27/2/24	8
2004/10	Question of the violation of human rights in the occupied Arab territories, including Palestine.	Recorded vote 31/7/15	8
2004/11	Situation of Human Rights in Cuba.	Recorded vote 22/21/10	9
2004/12	Situation of Human Rights in Turkmenistan.	Recorded vote 25/11/17	9
2004/13	Situation of Human Rights in the Democratic People's Republic of Korea.	Recorded vote 29/8/16	9
2004/14	Situation of Human Rights in Belarus.	Recorded Vote 23/13/17	9
2004/15	Cooperation with representatives of United Nations human rights bodies.	Without a vote	9
2004/16	Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance.	Recorded vote 36/13/4	6
2004/17	Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights.	Recorded vote 38/13/2	10

APPENDIX F—RESOLUTIONS ADOPTED BY THE COMMISSION ON HUMAN RIGHTS AT ITS 60TH SESSION—CONTINUED

Year/Res. No.	Res. Title	Method of Adoption	Agenda Item
2004/18	Effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights.	Recorded vote 29/14/10	10
2004/19	The right to food	Recorded vote 51/1/1	10
2004/20	Promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities.	Recorded vote 38/1/14	10
2004/21	Adequate housing as a component of the right to an adequate standard of living.	Without a vote	10
2004/22	Human rights and unilateral coercive measures.	Recorded Vote 36/14/3	10
2004/23	Human Rights and Extreme Poverty.	Without a vote	10
2004/24	Globalization and its impact on the full enjoyment of all human rights.	Recorded vote 38/15/0	10
2004/25	The Right to Education	Without a vote	10
2004/26	Access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria.	Without a vote	10
2004/27	The right of everyone to the enjoyment of the highest attainable standard of physical and mental health.	Recorded vote 52/1/0	10
2004/28	Prohibition of forced evictions	Recorded vote 45/1/7	10
2004/29	Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights.	Recorded vote 48/0/5	10
2004/30	Enhancing the role of regional, sub/regional and other organizations and arrangements in promoting and consolidating democracy.	Recorded vote 45/0/8	11

APPENDIX F—RESOLUTIONS ADOPTED BY THE COMMISSION ON HUMAN RIGHTS AT ITS 60TH SESSION—CONTINUED

Year/Res. No.	Res. Title	Method of Adoption	Agenda Item
2004/31	Strengthening of popular participation, equity, social justice and non/discrimination as essential foundations of democracy.	Recorded vote 28/14/11	11
2004/32	Integrity of the judicial system ...	Without a vote	11
2004/33	Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers.	Without a vote	11
2004/34	The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms.	Without a vote	11
2004/35	Conscientious objection to military service.	Without a vote	11
2004/36	Elimination of all forms of religious intolerance.	Without a vote	11
2004/37	Extrajudicial, summary or arbitrary executions.	Recorded vote 39/0/12	11
2004/38	The incompatibility between democracy and racism.	Without a vote	11
2004/39	Arbitrary detention	Without a vote	11
2004/40	Enforced or involuntary disappearances.	Without a vote	11
2004/41	Torture and other cruel, inhuman or degrading treatment or punishment.	Without a vote	11
2004/42	The right to freedom of opinion and expression.	Without a vote	11
2004/43	Human rights in the administration of justice, in particular juvenile justice.	Recorded vote 43/1/8	11
2004/44	Human rights and terrorism	Recorded vote 31/14/8	11
2004/45	Trafficking in women and girls ...	Without a vote	12
2004/46	Elimination of violence against women.	Without a vote	12
2004/47	Abduction of children in Africa ...	Without a vote	13
2004/48	Rights of the child	Recorded vote 52/1/0	13
2004/49	Violence against women migrant workers.	Without a vote	14.A
2004/50	Missing persons	Recorded vote 52/0/1	14.D
2004/51	Rights of persons belonging to national or ethnic, religious and linguistic minorities.	Without a vote	14.B
2004/52	Human rights of persons with disabilities.	Without a vote	14.D

APPENDIX F—RESOLUTIONS ADOPTED BY THE COMMISSION ON HUMAN RIGHTS AT ITS 60TH SESSION—CONTINUED

Year/Res. No.	Res. Title	Method of Adoption	Agenda Item
2004/53	Human rights of migrants	Without a vote	14.A
2004/54	Tolerance and pluralism as indivisible elements in the promotion and protection of human rights.	Without a vote	14.B
2004/55	Internally displaced persons	Without a vote	14.C
2004/56	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.	Without a vote	14.A
2004/57	Working Group on Indigenous Populations of the Sub/Commission on the Promotion and Protection of Human Rights.	Recorded vote 38/15/0	15
2004/58	Working Group on Indigenous Populations of the Sub/Commission on the Promotion and Protection of Human Rights, and the International Decade of the World's Indigenous Peoples.	Recorded vote 38/2/13	15
2004/59	Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994.	Without a vote	15
2004/60	The work of the Sub/Commission on the Promotion and Protection of Human Rights.	Without a vote	16
2004/61	Situation of human rights in Myanmar.	Without a vote	9
2004/62	HR and indigenous issues	Without a vote	15
2004/63	Enhancement of international cooperation.	Without a vote	17
2004/64	Promotion of a democratic and equitable international order.	Recorded vote 31/15/7	17
2004/65	Promotion of peace as a vital requirement for the full enjoyment of all human rights by all.	Recorded vote 32/15/6	17
2004/66	Human rights and international solidarity.	Recorded vote 37/15/1	17
2004/67	Question of the death penalty	Recorded vote 29/19/5	17
2004/68	Human rights Defenders	Without a vote	17
2004/69	Status of the International Covenants on Human Rights.	Without a vote	17
2004/70	The role of good governance in the promotion of human rights.	Without a vote	17

APPENDIX F—RESOLUTIONS ADOPTED BY THE COMMISSION ON HUMAN RIGHTS AT ITS 60TH SESSION—CONTINUED

Year/Res. No.	Res. Title	Method of Adoption	Agenda Item
2004/71	Follow/up to the United Nations Decade for Human Rights Education.	Without a vote	17
2004/72	Impunity	Without a vote	17
2004/73	Composition of the staff of the Office of the United Nations High Commissioner for Human Rights.	Recorded vote 35/14/4	18
2004/74	Regional cooperation for the promotion and protection of human rights in the Asian and Pacific region.	Without a vote	18
2004/75	National institutions for the promotion and protection of human rights.	Without a vote	18
2004/76	Human rights and special procedures.	Recorded vote 35/0/18	—
2004/77	Protection of United Nations personnel.	Without a vote	18
2004/78	Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights.	Without a vote	—
2004/79	Technical cooperation and advisory services in Cambodia.	Without a vote	19
2004/80	Assistance to Somalia in the field of human rights.	Without a vote	19
2004/81	Advisory services and technical cooperation in the field of human rights.	Without a vote	19
2004/82	Advisory services and technical assistance in Burundi.	Without a vote	19
2004/83	Technical cooperation and advisory services in Liberia.	Without a vote	19
2004/84	Technical cooperation and advisory services in the Democratic Republic of the Congo.	Without a vote	19
2004/85	Technical cooperation and advisory services in Chad.	Without a vote	19
2004/86	Assistance to Sierra Leone in the field of human rights.	Without a vote	19
2004/87	Protection of human rights and fundamental freedoms while countering terrorism.	Without a vote	17

APPENDIX F—RESOLUTIONS ADOPTED BY THE COMMISSION ON HUMAN RIGHTS AT ITS 60TH SESSION—CONTINUED

Year/Res. No.	Res. Title	Method of Adoption	Agenda Item
2004/88	World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow/up to the Durban Declaration and Programme of Action.	Recorded vote 38/1/14	6

APPENDIX G—United Nations Commission on Human Rights Voting History, 2003–2004

	Belarus		Chechnya		Cuba		Turkmenistan		DPRK	Iraq	China (n/a)	Zimbabwe (n/a)	
	03	04	03	04	03	04	03	04	03	03	04	03	04
AFRICA-15													
Algeria (03)	a	—	n	—	n	—	a	—	n	*	—	y	—
Burkina Faso (05)	a	a	a	a	n	n	a	a	a	*	y	y	y
Cameroon (03)	a	—	a	—	y	—	a	—	a	a	—	y	—
DROC (03)	a	a	n	n	n	n	a	a	a	a	y	y	y
Egypt (08)	—	n	—	n	—	n	—	n	—	—	y	—	y
Eritrea (08)	—	a	—	n	—	a	—	a	—	—	y	—	y
Ethiopia	—	a	—	n	—	n	—	a	—	—	y	—	y
Gabon (05)	a	a	n	n	n	a	n	a	y	a	y	y	y
Kenya (03)	y	—	a	—	a	—	a	—	y	y	—	y	—
Libya (03)	n	—	n	—	n	—	n	—	n	*	—	y	—
Mauritania (08)	—	a	—	a	—	a	—	a	—	—	y	—	y
Nigeria (08)	—	n	—	n	—	n	—	a	—	—	y	—	y
Senegal (03)	a	—	a	—	a	—	a	—	a	a	—	y	—
Sierra Leone (04)	a	n	a	n	y	n	a	a	a	*	y	y	y
South Africa (03)	n	n	n	n	n	n	a	a	a	*	y	y	y
Sudan (04)	n	n	n	n	n	n	n	n	n	y	y	y	y
Swaziland (05)	n	a	n	n	a	n	a	a	a	a	y	y	y
Togo (04)	a	a	n	n	a	n	a	a	a	a	y	y	y
Uganda (04)	a	a	n	n	a	a	a	a	a	y	a	y	y
Zimbabwe (05)	n	n	n	n	n	n	n	n	n	n	y	y	y
ASIA-12													
Bahrain (04)	a	a	a	a	n	n	n	n	a	y	y	y	y
Bhutan (08)	—	a	—	a	—	a	—	a	—	—	y	—	y
China (05)	n	n	n	n	n	n	n	n	n	*	y	y	y
India (03)	n	n	n	n	n	n	n	a	a	a	y	y	y
Indonesia (08)	—	n	—	n	—	n	—	n	—	—	y	—	y
Japan (05)	y	y	a	a	y	y	y	y	y	y	n	n	n
Korea (04)	y	y	a	a	y	y	y	y	*	y	a	n	n

APPENDIX G—United Nations Commission on Human Rights Voting History, 2003–2004—Continued

	Belarus		Chechnya		Cuba		Turkmenistan		DPRK	Iraq	China (n/a)	Zimbabwe (n/a)	
	03	04	03	04	03	04	03	04	03	03	04	03	04
Malaysia (03)	n	—	a	—	n	—	n	—	n	n	—	y	—
Nepal (08)	—	a	—	n	—	a	—	a	—	—	y	—	y
Pakistan (04)	a	a	a	a	n	n	n	n	a	a	y	y	y
Qatar	—	a	—	a	—	n	—	n	—	—	y	—	y
Saudi Arabia (03)	a	a	a	a	n	n	n	n	y	y	y	y	y
Sri Lanka (05)	y	y	n	n	a	a	y	y	a	y	y	y	y
Syria (03)	n	—	n	—	n	—	n	—	n	a	—	y	—
Thailand (03)	a	—	a	—	a	—	a	—	a	y	—	y	—
Vietnam (03)	n	—	n	—	n	—	n	—	n	a	—	y	—
GRULAC-11													
Argentina (05)	a	a	a	a	a	a	y	y	y	y	a	n	n
Brazil (05)	y	y	n	n	a	a	a	y	y	y	y	a	a
Chile (04)	y	y	y	a	y	y	y	y	y	y	a	n	n
Costa Rica (03)	y	y	y	a	y	y	y	y	y	y	n	n	n
Cuba (03)	n	n	n	n	n	n	n	n	n	n	y	y	y
Dominican Republic (08)	—	y	—	a	—	y	—	y	—	—	a	—	n
Guatemala (03)	a	y	a	a	y	y	y	y	y	y	n	n	n
Honduras (08)	—	a	—	a	—	y	—	y	—	—	n	—	n
Mexico (04)	y	y	y	a	y	y	y	y	y	*	a	n	a
Paraguay (05)	y	y	a	a	y	a	y	y	y	y	a	n	n
Peru (03)	y	y	a	a	y	y	y	y	y	y	a	n	n
Uruguay (03)	y	—	a	—	y	—	y	—	y	y	—	n	—
Venezuela (03)	a	—	n	—	n	—	a	—	y	a	—	y	—
E. EURO-5													
Armenia (04)	n	n	n	n	y	y	n	a	y	y	a	n	n
Croatia (04)	y	y	y	y	y	y	y	y	y	y	n	n	n
Hungary (08)	—	y	—	y	—	y	—	y	—	—	n	—	n

Poland (03)	y	—	y	—	y	—	y	—	y	y	—	n	—
Russian Federation	n	n	n	n	n	n	n	a	n	a	y	y	y
Ukraine (05)	n	n	n	n	n	n	n	n	y	y	y	n	n
WEOG-10													
Australia (05)	y	y	y	y	y	y	y	y	y	y	n	n	n
Austria (04)	y	y	y	y	y	y	y	y	y	y	n	n	n
Belgium (03)	y	—	y	—	y	—	y	—	y	y	—	n	—
Canada (03)	y	—	y	—	y	—	y	—	y	y	—	n	—
France (04)	y	y	y	y	y	y	y	y	y	y	n	n	n
Germany (05)	y	y	y	y	y	y	y	y	y	y	n	n	n
Ireland (05)	y	y	y	y	y	y	y	y	y	y	n	n	n
Italy (08)	—	y	—	y	—	y	—	y	—	—	n	—	n
Netherlands (08)	—	y	—	y	—	y	—	y	—	—	n	—	n
Sweden (04)	y	y	y	y	y	y	y	y	y	y	n	n	n
UK (03)	y	y	y	y	y	y	y	y	y	y	n	n	n
U.S. (05)	y	y	y	y	y	y	y	y	y	y	n	n	n
Final Vote													
yes	23	23	15	12	24	22	23	25	28	31	28	28	27
no	14	13	21	23	20	21	16	11	10	3	16	24	24
abstain	16	17	17	18	9	10	14	17	14	12	9	—	1

* = Did not vote.
n/a = No Action Vote.
Countries in bold were new to the CHR in 2004.
Numbers within parenthesis indicate the year a country's term ends.

APPENDIX H.—Universal Declaration of Human Rights

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore, The General Assembly, proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of an kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and the security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty without any limitation due to race, of any penal offence on account of nationality or religion, have the any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each state.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor be denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the Government of his country, directly or through freely chosen representatives.

2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

1. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Hundred and eighty-third plenary meeting
Resolution 217(A)(III) of the United Nations General Assembly,
December 10, 1948

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